

MEMORIAL

OF THE

DELEGATES AND REPRESENTATIVES OF CHOCTAW NATION OF INDIANS,

PRAYING

That provision may be made for the final settlement of their claims under the treaty of 1830, and all other treaties.

MARCH 18, 1856.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the honorable the Senate of the United States :

Your memorialists, delegates and representatives of the Choctaw nation of Indians, respectfully call the attention of your honorable body to the eleventh article of the treaty of 22d June last between the United States and the Choctaws and Chickasaws, which stipulates "that the following questions be submitted for adjudication to the Senate of the United States :

"*First.* Whether the Choctaws are entitled to, or shall be allowed the proceeds of, the sale of the lands ceded by them to the United States by the treaty of September the twenty-seventh, eighteen hundred and thirty, deducting 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,

"*Second.* 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 ?"

The accompanying printed copies of documents and correspondence with the executive department of the government, show how these questions have arisen, and the reason of their being submitted to the Senate. They are questions of grave importance to the Choctaws, who anxiously desire a final settlement with the government, in order that the numerous individuals amongst them having valid claims may receive that justice which has so long been withheld to their detriment and serious injury ; and that their national funds, dedicated as those funds are to the education and advancement of their people, may be augmented by whatever amount a just settlement with the government, and with individual Choctaw claimants, may leave for that purpose.

It will be perceived that we claim the full value of the lands ceded

by us by the treaty of 1830. This was clearly and unequivocally promised us by the commissioners on the part of the United States who negotiated that treaty. It is what we distinctly understood we were to have, what we honestly believe we are entitled to, and what we contend a fair and just construction of the treaty would give to us. Any other result would be a falsification of the promises and pledges of the commissioners, and a cruel and crushing disappointment to the Choctaws. The commissioners announced distinctly that the United States were to receive no part of the value of the lands, or any profits arising from their sale; that the whole benefits of the treaty were to enure to the Choctaws. The government, therefore, cannot justly retain or withhold any part of that value, or those profits, if any there be.

It has been suggested, as an objection to our claim to a settlement on the bases of allowing us the net proceeds of our lands, that the treaty of 1830 ceding them, does not specifically provide for such an allowance. Of this fact we have all along been fully aware. The treaty, however, creates a trust fund out of the proceeds of the lands, with certain liens thereon for various special and specific purposes. That trust was created for our benefit, and if any balance remain of the fund after the discharge of those liens it belongs to the Choctaws. Such is the result of the clear and conclusive report of the government agent for the Choctaws, who was appointed to examine the whole subject. We do not think there can be a well founded doubt on this point, but if there were, the treaty provides that the Choctaws shall have the benefit of it. The trust can only be fulfilled and the treaty carried out in its intent and according to the promises and pledges of the commissioners, and our consequent understanding of the contract by awarding to us the net proceeds of the lands. Hence our claim to a settlement on that principle.

Had the special provisions and obligations of the treaty been justly and faithfully carried out, we doubt if there would be any net proceeds of the land, whether the trust fund would not have been entirely absorbed.

By the 14th article of the treaty every head of a Choctaw family was entitled to appropriate a certain proportion of the ceded lands for the special benefit of him or herself and family, averaging from two to two and a half sections in each case. Had the Choctaws, according to their rights and intentions, been permitted to avail themselves of, and been secured in, the benefits of this article, the lands that would thus have been taken and appropriated, together with those granted by the nineteenth and the supplementary articles of the treaty, would have absorbed nearly the entire cession, certainly all of the lands embraced therein that were of any material value. Those which, in that case, would have been left to be sold by the government, might not have yielded a sufficient fund to meet the payments and expenditures for the Choctaws provided for in the treaty. There might have been a deficit which would have had to be provided for out of the treasury of the United States. We would, probably, have got in reservations and otherwise the full value of our lands, and even more.

We will not here go into all the particulars in regard to the *laches*

and want of good faith, on the part of the government, in carrying out the treaty. Not one in twenty of the large number of those who were entitled to reservations, and intended to take them, ever got them. Through the strenuous efforts, the influence, and the coercive course adopted by the government, the great body of the nation was hurried off to the country west, to the entire sacrifice of their individual rights and their property. They lost their reservations, with all their improvements thereon, and also their cattle and other stock, as well as their household stuff, which was so necessary to their comfort in the new country west. From a condition of plenty and comfort in their old homes, they were reduced to one of extreme destitution and suffering, in consequence of which many valuable lives among them were sacrificed.

Of the seven thousand Choctaws who managed to elude the efforts of the government to remove them, and also persisted in remaining and claiming their reservations, not one in ten got them. No proper measures were taken to secure them in their rights. They were driven from their reservations by white men, and their lands sold by the government. The laws subsequently passed to secure them an indemnity for their lost reservations, failed in a great degree to effect that object. In consequence of the restrictive and technical provisions of those laws, many just claims were cut off, and, in the cases admitted, the parties had to pay one half of the amount recovered to attorneys, in consequence of the difficulty of establishing their claims according to the requirements of the laws. They were paid in scrip which they were unable to locate, and which had to be sold at a heavy discount. In no case did the indemnity received amount to more than from sixty-two and a half to seventy-five cents per acre. Had they been secured in their reservations not one of them would have sold for less than one dollar and twenty-five cents per acre. In the limited number of cases where the parties managed to hold on to and secure their reservations, not one of them was sold for less than that price. Most of them were sold for far more. From this brief statement, which is in strict accordance with the facts, some idea may be had of the immense aggregate of the losses which the Choctaws have thus individually sustained.

Besides the claims to indemnity for reservations of which the Choctaws were deprived, there are many other valid claims of individuals which have never been settled and paid by the government, among which we may enumerate those for money in lieu of reservations, under the 19th article of the treaty; those for stock, never paid for or supplied, as provided for in the 16th article; those for other personal property to a large amount, lost and sacrificed in consequence of the emigration not having been conducted by the government according to the same article; and those for indemnification for the expense of removal and subsistence on the part of the Choctaws, who removed and subsisted themselves and families at their own cost. These and other just and valid claims, under the treaty of 1830, remain unsettled. The government has never made any just, equitable, or proper efforts to settle and pay them; and from lapse of time, loss of evidence, and the consequent impossibility of proving them in the manner and to

the extent that the government is compelled to require in all such cases, to avoid fraud and imposition, it cannot now settle and dispose of them so as to do justice. This, however, can be done, and only done, by the authorities of the Choctaw nation, the claimants and all the facts and circumstances connected with their claims being sufficiently known, understood, and appreciated among ourselves to ensure a proper settlement. Hence our proposition to the government to transfer this trust under the treaty to us, together with the fund, to enable us to discharge it. Our proposition has been accepted, subject, however, to the decision of the Senate, whether we shall have the trust fund under the treaty of 1830, namely, the proceeds of the lands, so far as the latter have been sold, and the value of those yet unsold, deducting therefrom the just and proper expenditures and payments which the government has made under that treaty; or whether we shall have a gross sum for the purpose, the amount thereof to be fixed by the Senate. The decision of that body is, by the 12th article of the treaty of 22d June last, to be final, and whichever of the two alternatives it may adopt and decide, the United States will be completely and forever released and discharged from all claims of the Choctaws, whether national or individual, and arising under, not only the treaty of 1830, but all other treaties between them and the United States, the Choctaws at the same time becoming liable for and bound to pay all such claims as are of an individual character. The obligations of the United States as to the latter class of claims, arising under any of the treaties with the Choctaws, are not only transferred to us, but we are bound to discharge them; and, to ensure the faithful fulfilment of this stipulation, it is to be done under the supervision of the government agent. The decision of the Senate on the questions submitted to it is, therefore, a matter of the greatest importance as well as the most anxious concern to the Choctaws.

We have no means of determining, with any satisfactory degree of exactitude, the extent of the valid and unsatisfied claims of individuals under the treaty of 1830, and all other treaties with the Choctaws. This could only be ascertained after a long and patient investigation, mainly in the Choctaw country, which would consume much time and be attended with heavy expense. They are known to be numerous, and amount to a large sum in the aggregate. Whatever their extent, the United States will be entirely released and discharged from, and the Choctaws positively bound to pay them. Hence the necessity and obligation of a sufficient sum being provided for that purpose. It would be contrary to every principle of right and justice to saddle the Choctaws with these liabilities of the government with an inadequate fund for the just and proper discharge of them. We believe them to be so large, that, added to the heavy payments and expenditures which the government has made under the treaty of 1830, they would not fall far short of absorbing the amount we would receive on the principle of allowing us the net proceeds of the lands sold, and a fair price for those remaining unsold; so that to provide an adequate gross sum for their discharge would be equivalent to making us the above mentioned allowance.

It is not for amounts, however, that we are contending, but for principle. Believing the Choctaws to be justly, equitably, and legally entitled to the full value of their lands ceded under the treaty of 1830, and anxious for a final settlement with the government, we have contended for the net proceeds of the lands so far sold, and a fair price for those remaining unsold. This is the only way that our people can be made to realize that they will receive the full value of their lands according to the understanding when the treaty surrendering them was entered into. So fully are they impressed with the conviction that this is the only just and fair mode of settlement, that they would be better satisfied with its results than with even a larger sum in gross.

In demanding the net proceeds of our lands, we are asking for nothing new, for the same has been allowed to numerous other tribes of Indians; and though it does not become us to speak in our own praise, we confidently assert that our whole history will show that there is no tribe that better deserves to be liberally dealt with than the Choctaws.

Respectfully commending the whole subject to the kind and generous consideration of the Senate, in whose liberality and sense of justice we have entire confidence, your memorialists beg leave to subscribe themselves, with all deference and respect,

P. P. PITCHLYNN.
ISRAEL FOLSOM.
SAMUEL GARLAND.

PAPERS RESPECTING THE RIGHTS AND INTERESTS OF THE CHOCTAW NATION, AND THEIR RELATIONS WITH THE UNITED STATES, THE CHICKASAWS, AND OTHER INDIAN TRIBES.

THE CHOCTAWS: THEIR RIGHTS, INTERESTS, AND RELATIONS.

*Address of P. P. Pitchlynn, of the Choctaw delegation, to President Pierce, on presenting the appeal of the delegation in behalf of their nation.**

SIR: As the representative of a once powerful, but now a weak and dependent people, we come to-day to the white house, to approach him who occupies the position which the great Washington himself first filled—a position which the red man looks up to as the most exalted in the world, but where he may always come and ask for justice at the hands of his political "Great Father."

[*From the Washington Union of February 6, 1855.]

The appeal of the Choctaws.—Col. Pitchlynn's address to the President.

We were present, on Saturday, when the Choctaw delegation, consisting of Messrs. Pitchlynn, Garland, Folsom and Lewis, had an interview with President Pierce, in regard to an adjustment of various unsettled questions between the United States and the Choctaw nation. Col. Pitchlynn delivered to the President a most touching and eloquent address, which will be found in another column. The President expressed himself much gratified by the interview, and received the memorial and documents of the delegation with an assurance that he would take pleasure in devoting his earliest leisure to their examination, and with every disposition to see that full justice should be awarded to the Choctaws.

Our fathers before us took Washington by the hand, and pledged their friendship to the United States, and declared that it should last as long as the sun brought forth day and cheered the hearts of men. That pledge has never once been broken by the Choctaws. In all their relations with the United States they have ever sought peace, good-will, and friendship; and their treaty stipulations with the government have always been faithfully observed. In war they have perilled their lives, and shed their blood, in support and defence of the United States. In peace they have quietly and submissively yielded to their policy and wishes, though often at great sacrifices both of interest and feeling. No people ever gave stronger proofs of more durable friendship than that which has ever characterized the conduct of the Choctaws towards the United States. To your people we have been good men and true; we have done them no injury whatever.

We come before you as suppliants, not for merciful concessions, or even favors, but for right and justice. Once our possessions embraced the valuable and fertile territory now included in the States of Mississippi, Alabama, and Louisiana, and over which our sway was undisputed and supreme. There the bones of our ancestors for many generations repose, and there the Choctaws hoped to remain, to watch over them, and to be perpetuated as a free and independent nation. But another and a stronger race came and swept us away into a distant and wilderness land, where we had long to struggle against the depressing effects of sad and painful reflections upon the hard and unyielding policy which deprived us of our father-land and cherished homes.

At the time of our first treaty with the United States, in 1786, when the Choctaws placed themselves under their protection, they owned and possessed about fifty millions of acres of land east of the Mississippi river, which was gradually, and by piecemeal, wrested from us, until, in 1830, we were required to cede the last foot of it to the government. For all this magnificent domain, the once undisputed heritage of our fathers, which has put millions upon millions into the treasury of the United States, we received the most meagre and inconsiderable consideration. The government required our lands, and we were compelled to submit and yield them up. It fixed its own price, and no alternative was left us but to agree to what it had determined we should accept. It has been enriched and otherwise benefitted to an incalculable extent—we impoverished, prostrated, and exiled. Had our last and most important treaty—that of 1830—been carried out in a spirit of liberality and justice, we should not be disposed to complain. Could we now obtain our just and equitable rights under it, we would be satisfied. There are important matters involved in its provisions yet remaining unsettled. We wish to adjust them and all questions at issue between our people and the United States, so that there may no longer be any ground for dispute or controversy. The interest and welfare of our people require that this should be done. They know that they have just claims for large amounts against the government.

We were sent here a year ago, by our nation, to endeavor to effect a final adjustment of all our unsettled business, and to do whatever might be necessary to simplify and more satisfactorily define our rela-

tions with the government. We communicated to the proper department the objects of our visit, and the wishes of our people; and our respected agent, who then was here, was deputed to make an investigation, and report in relation thereto. On an invitation from him, we submitted, in writing, a full and detailed statement of the nature and extent of our claims, and the new arrangement desirable in regard to our political and municipal relations. He carefully examined into the several matters submitted to him, and made an elaborate report thereon, of a highly favorable character. It shows clearly that justice has not been done to us. It admits substantially all that we claim and desire. Being a gentleman of ability and high character, his report should, we think, have had some weight and influence in our favor; but it appears to have had none. Three of the members of our delegation having returned home, they have been sent back by the nation, with instructions to persist in our efforts to obtain justice. They have only recently arrived; and as our appeals to the department have resulted only in disappointment and mortification, we have no alternative but to submit our case to our "Great Father," the President himself.

In invoking your interference and kind consideration of our case—which you will find fully set forth and explained in the memorial and accompanying papers, which we ask permission to present to you—we beg leave to state our belief, that issues of the most momentous character, to our people, are involved in the appeal which we now make to you in their behalf.

We have arrived at a critical point in our history, and much depends upon the course which the government shall now adopt towards us. We have struggled hard to regenerate and elevate ourselves in the scale of civilization. Every dollar that we could spare, and every instrumentality in our power, has been made use of to diffuse the blessings of education among our people, and to improve their moral and physical condition. But our means and resources are too scanty to accomplish but a little of what we desire. Our progress is too slow, and we are almost disheartened; but, let our affairs with the government be properly and kindly adjusted—let only simple justice be done to us, in the matter which we now submit for your consideration—and we believe a new and brighter day will soon dawn upon us; that the dark clouds which have so long obscured our future will pass away, and the sunlight of hope will gladden our hearts, exciting and encouraging us to renewed efforts and still nobler aims.

We regard, with deep interest, the plan which has been brought forward by a member of the Senate, whom we love and honor as a kind, disinterested, and zealous friend of our unfortunate race, for placing ourselves, and the other tribes in our vicinity, in a position of political equality with our white brethren. It is one that we are anxious to occupy; but our present resources are too restricted and limited, we fear, to justify us in assuming it. Let us but have the means of giving a new, stronger, and wider impulse to the cause of education among our people, and to aid us in defraying the greater expense of a more elevated position and form of government, and we shall be proud to assume them. We believe a just and fair settlement with us by the government would give us means to a sufficient extent to justify us in

assuming the new and more elevated position so kindly proposed to be held out to us. And we realize the necessity of some such change. We cannot remain long as we are. We must rapidly become a regenerated and enlightened people, and place ourselves, as nearly as possible, in a situation of equality with our white brethren, or we shall be overcome and destroyed by the mighty wave of population and civilization, which is rapidly spreading and rolling onward, with accumulated and resistless force, towards the remotest confines of this great country; and which has already engulfed such myriads of our race.

We believe, honored sir, that our destiny is, in a measure, in your hands. If you will consent to interfere, and cause justice and liberality to be extended towards us, we shall feel ourselves safe. We will endeavor to profit wisely and discreetly by the results of such kindness, whatever they may be; to vindicate and ennoble the wisdom and magnanimity which dictated your friendly interference in our affairs; and so to preserve and manifest our deep sense of obligation towards you, that your name may descend with reverence and blessings to the generations that are to come after us.

We now beg leave to place in your hands our written memorial and documents.

*To his excellency General FRANKLIN PIERCE,
President of the United States.*

SIR: The Choctaw Nation of Indians, through the undersigned, their duly authorized delegates and representatives, respectfully present this, their humble appeal, to the Chief Magistrate of the United States. It is an appeal for justice, and, in your known magnanimity and generosity of character, we have a strong assurance that it will not be made in vain.

We were sent here by our people, more than a year ago, to endeavor to obtain a final settlement of our unadjusted affairs with the government; and to effect such changes in our existing treaty stipulations with it as are required by our more advanced and enlightened condition, and as would tend to simplify and render more satisfactory our relations with the government and with the people of the United States, with whom we are brought into contact, as well as with our brethren of other tribes. We were the more hopeful, in regard to the latter object, because the government, through its authorized officer in charge of Indian affairs, had proclaimed its desire to revise all the old Indian treaties, because of their being, in many respects, crude, vague, and unsuitable in their provisions; and to substitute others of a more simple, perspicuous, and satisfactory character. But, we more than regret to say that we have, thus far, accomplished nothing. An examination of our unsettled affairs has been refused, unless ordered by Congress, with which branch of the government we should, rightfully, have nothing to do. And when, in compliance with a request to that effect, we simply and deferentially submitted an outline of the changes which

appeared desirable in our conventional arrangements with the government, we were considered as making *demands*, some of which, appearing to be novel, were regarded as improper and presumptuous, and the whole subject apparently dismissed as unworthy of further consideration. All that we have asked for is justice; and the establishment of a more liberal and enlightened policy towards us. We have entirely failed in our efforts; while there is not a *northern* tribe of Indians for whom the same things substantially are not being done. With them, new treaties have been, or are being made, by which their relations with the government have been, or are to be, modified; former controversies settled; old claims adjusted, and injuries repaired. While these things are being done for them, the rights and interests of the great semi-civilized southern tribes—who, by their progress and advancement in civilization, and in the pursuits of civilized life, have done most to confer credit upon the Indian policy of the United States, and upon whom the government must rely in case of difficulties in its Indian relations in the west—are, as it seems to us, slighted and neglected.

The representatives of the four great southern tribes—the Cherokees, Creeks, Chickasaws, and Choctaws—have, in turn, appeared here, and appealed to the government, in the most urgent but respectful manner, for justice and the exercise of a liberal policy in matters affecting their welfare and vital interests; but they have appealed in vain. There has certainly been a manifest distinction and discrimination between the northern and southern Indians, in the course of the government authorities towards them—a distinction painful and humiliating to the latter. How to account for it we know not. It may have been entirely accidental. Of one thing, however, we feel assured, that it has not been authorised by you; and that it is a circumstance of which you cannot be aware. Overburdened, as you are, with matters connected with the vast and complicated interests of this great nation, you have but little time and opportunity to make yourself acquainted with the condition and welfare of your poor and helpless red children. Yet, next to the Great Spirit, it is you, their “Great Father,” that they look in all their difficulties and trials.

Of all the Indian tribes with which the government has ever had any dealings, there is not one more deserving of friendly, liberal, and magnanimous regard than the Choctaws. It is a remarkable fact, confirmed by history, that they are the only tribe which has never been in hostile collision with, and been conquered and subdued by, the United States. Never have they broken a promise or violated their plighted faith with the government. Under all and in many trying circumstances, they have faithfully observed all their treaty stipulations. Quietly submitting to the unyielding and uncompromising policy of the government, they, years since, became dispossessed of the last portion of their once vast domains; out of which have been formed several of the leading and most important States of the south-west; and for which they received the most inadequate compensation. Had they been less loyal and submissive, and resisted the policy and wishes of the government, they would, in many respects, have fared better; as other tribes have done that have pursued the latter course.

Appealing to the history of their past relations with the United States for abundant proof of their many and strong claims upon the liberality and magnanimity of the government, and invoking that justice which is due and has not been extended to them, they, with humble confidence, submit their case for the consideration of their "Great Father," the President of the United States. They propose, in this paper, however, only a partial statement thereof; referring to the accompanying documents for the facts and reasons, in detail, upon which their claims and pretensions are founded.

By the treaty of 1820 with the Choctaws, they retained a comparatively small portion of their once extensive possessions east of the Mississippi, for the permanent home of the more advanced portion of the tribe, who desired to remain in the country of the homes and final resting-places of their forefathers, and, eventually, to become citizens of the United States. The great Jackson assured the Choctaws that if they would consent to make that treaty, and to relinquish that portion of their lands which was ceded by it to the government, the remainder should be secured to them forever—that "the pegs should be driven down, and the lines marked, never to be obliterated." Under circumstances of a coercive character, the Choctaws, with great reluctance, consented; the treaty was made, and the remainder of their lands secured to them in perpetuity, to be eventually divided and held by them in severalty. As a part of the consideration for the extensive and valuable cession thus obtained by the United States, the Choctaws were given the country they now occupy, west of Arkansas, for a home for the large portion of the tribe that was less civilized, and preferred the hunter mode of life. The game having become scarce in the old country, many had already wandered off and settled in that west. This western country, which, as stated, was given in part exchange for the cession east, was transferred and secured to the Choctaw nation, also in perpetuity—as "a permanent home for the Choctaws and their posterity forever." The succeeding treaty of 1825, by which, to accommodate the government, a strip of the eastern portion of it was retroceded by the Choctaws, recognised it as their permanent possession. The Choctaws thus owned and held that portion remaining to them of their old country east, and that sold to them west by the treaty of 1820, by a permanent and secure title, which, as to that west of the Mississippi, has never been weakened or impaired by any subsequent transaction between them and the government. The treaty of 1830, by which they ceded their remaining country east, only re-granted and confirmed it to them in a more formal and solemn manner, in order to comply with the provisions of the act of Congress, then recently passed, requiring the emigrated tribes to be specifically secured in their western homes by patent in fee simple. This explanation of the position and rights of the Choctaws, at the date of the treaty of 1830, is, to some extent, necessary to a proper understanding of their just rights and claims under that treaty.

Referring to the accompanying copy (marked A) of our communication of the 1st of May last, to our agent, who had been specially commissioned to examine into the business with which the delegation

was charged for a full statement of the facts and circumstances connected with the making of the treaty of 1830, and the grounds of our claims and demands under it, we will only say that, if that treaty can be fairly construed to give to our people no further rights and claims than there seems, thus far, to be a disposition, in some quarters, to concede to them, it was a cheat and a fraud, as discreditable to the government as it is unjust and humiliating to the Choctaws.

Like the treaty of 1820, that of 1830 was, in no slight degree, the result of coercion—of threats and representations of the most startling and alarming character. The Choctaws had long before determined never to sell another foot of their lands; the permanent and secure possession of which, together with the care and protection of the government, had been solemnly pledged and guaranteed to them. The universal sense and determination of the nation was against any further cession, and they refused to treat on the subject on any terms. Through the means referred to, however, and the most liberal promises, the treaty of 1830 was obtained from them, and they thereby lost the last acre of their ancient possessions. The great object of the treaty, on the part of the government, was to relieve itself of its obligations and promises to the Choctaws, of protection in their possessions, laws, and customs, which could not be carried out without a conflict with State policy and laws.—(See preamble to the treaty.) Hence, and because the Choctaws had a perpetuity or fee-simple title to their lands, the commissioners promised them the whole and entire benefit to result from their cession. They were explicitly told by the commissioners that the government did not want their lands, but only the mere possession of them. It had enough of its own already; and the commissioners did not come as traders, to dispute about prices. They came as friends to do them full justice, and would take no advantage of them whatever, and all the benefits of the transaction would be theirs; none would result to the United States, which were to derive no advantage or benefit whatever from the value or sale of the lands. These, and like promises were made and reiterated in every manner and form calculated to allure the Choctaws, and gain their assent to the propositions made by the commissioners, but all without effect, until they became panic-stricken by the threats and alarming representations made by the commissioners, of the withdrawal of the protection of the government, and the certain ruin and destruction of the Choctaws as a nation and people. We refer to the printed journal of the commissioners for the truth of what we here state, though it does not contain the final speech of the chief commissioner, who then held the high position of Secretary of War, which had the principal effect in frightening the Choctaws into a compliance with the wishes of the government. Immediately after that speech the treaty was signed, amidst great excitement and confusion, and without being read or interpreted. It was thus consummated in a moment of desperation on the part of the Choctaws, which was so great and universal, that it was dangerous for the commissioners to remain on the ground, or in the country, and they hurried off immediately, not even taking time to make and leave behind a copy of the treaty for the information of the Choctaws, which was promised to them. They had every assurance, however, that it

contained all the commissioners had promised; and, especially, that it secured to them the full and entire actual value of their lands, no part of which, as they were told, was to go to the United States.

The Choctaws, and we, as their delegates and representatives, contend that the treaty, as it stands, though less specific than the promises of the commissioners, upon which our people relied in hastily signing the treaty without its being read to them, does, by a fair and just interpretation, give to them the value of the lands ceded by it, viz: the actual proceeds of the sales thereof, after deducting the necessary and proper expenses of their survey and sale. We have successfully and satisfactorily established this proposition in the argument addressed to our agent on the subject, to which we have already referred. But, admit doubtfulness in the treaty on this point, the very article thereof (18th) which was intended to, and, according to our judgment, does secure to us the proceeds of the lands, provides "that in the construction of this treaty, wherever well-founded doubt shall arise, *it shall be construed most favorably towards the Choctaws.*" If there be any doubt, therefore, the Choctaws are entitled to the benefit of it; but, taken in connexion with the pledges and promises of the commissioners, the treaty cannot be considered doubtful on this question. Further, in case of doubt or obscurity, we have the right, by a well established principle of interpretation, to go back and refer to the facts preceding and connected with the formation of the treaty, and especially to the promises of the commissioners, as to what the treaty should contain, to show its meaning and intent. Between equals, this is a right which can be claimed only on the most clear and undoubted grounds; but between a great, powerful, and enlightened government, such as the United States, and a weak, helpless, and comparatively ignorant people, like the Choctaws, it is one which should be conceded on the slightest grounds of doubt. We humbly submit that it would ill become the dignity, honor, and fair fame of this "great republic," to stand upon technicalities in such a case.

In further proof of the facts and circumstances connected with the making of the treaty of 1830, and of our just and equitable rights under it, we refer to the accompanying letters (marked E and F) of General J. H. Eaton, who was the principal commissioner on the part of the United States in its negotiation, and General R. H. Grant, of Mississippi, a gentleman of high character and undoubted integrity, who was present at all the councils, and knew everything that transpired therein.

We would respectfully call your attention to the report of our agent, (a copy of which is herewith, marked B,) in regard to our pecuniary rights, under the treaty of 1830. Though taking a different view of the subject from that of our people and ourselves, it comes to the same result, viz: that the moneys realized from the sale of our lands, after discharging the proper liens thereon, fairly and justly belong to the Choctaws. That report was evidently prepared with great care; and we have no doubt the honorable Secretary of War will give ample testimony of the ability and integrity of the gentleman who made it. We have, in it, the judgment of an intelligent and reliable officer of the government, specially commissioned to examine into the subject,

that our claim is a just one. We cannot but believe, sir, that on investigating it, you also will come to that conclusion.

In pressing our right to the actual proceeds of our lands, we are not making a demand of a novel character, not asking what has not been allowed to other tribes. The same right was conceded to our brethren, the Chickasaws, whose country adjoined that of the Choctaws, east of the Mississippi, and whose title thereto was only the occupant or "Indian title." The treaty with them was made only a few years after that with us, and, as we understand it, upon the same basis, though they held their country by a title of far less dignity than we did ours. It was also granted to the Wyandotts and other Indians in Ohio, about the same time, and all the treaties recently made with the Indians in Nebraska and Kansas, with but one or two exceptions, in which large prices, in lieu, were agreed to be paid for the lands, are based upon the same principle.

We would call your attention to the individual claims of many of our people, under the treaty of 1830, whose rights have been totally disregarded or neglected by the government. They are briefly set forth and referred to in our argument before our agent, and in his report. We have shown why their further prosecution against the government is entirely hopeless; in consequence of which the Choctaw nation has proposed to assume the settlement and payment of them itself, if the United States will do justice and pay over the amount due to it. For both these purposes a new treaty is necessary; and we humbly trust, sir, that you will see the propriety of directing one to be made with us, providing for a pecuniary settlement with the Choctaws, on the basis we claim, as a matter of right and justice. There are other important reasons why a new treaty should be made with us, as you will find on a perusal of our papers. We particularly refer you to the accompanying copy (marked D) of our communication to the Acting Commissioner of Indian Affairs, of the 11th of July last, from which you will perceive that there are grave and important issues pending between the Choctaws and the United States—issues which must be met and settled soon; and which we hope your administration will have the credit of doing, instead of our being thrown off upon a succeeding one, or upon Congress, as proposed by the honorable Secretary of the Interior. Sir, we claim that the executive department of the government is not justified in referring us to Congress for a redress of grievances, arising out of the non-fulfilment of treaty stipulations. It cannot do so without a manifest disregard of its just obligations. With it rests the duty of carrying out the laws promptly, justly, and, in the case of a feeble Indian tribe, magnanimously; and a treaty is the highest kind of law. There is no more propriety in referring us to Congress, to prosecute rights and claims arising under treaty stipulations, than there would be in so referring a foreign nation having demands arising in the same way. And what would be thought of the executive department of this government, not only by other governments, but by its own people, if it so sought to transfer its duty and responsibility to Congress.

The honorable Secretary of the Interior, in his letter to the Commissioner of Indian Affairs, of the 20th June last, (copy herewith marked

C,) summarily disposing of our case, and throwing us upon Congress, says: "If the annuities have not been paid, according to treaty stipulations, let Congress, or one of the Houses, make a call upon the Indian office and Second Auditor, for the necessary statements and reports."

In order to demonstrate the injustice of such a decision, and the inutility of such a reference of us to Congress, it is only necessary for us to state, that under the last administration, without waiting for a call from "Congress, or one of the Houses," an investigation was made to ascertain whether our annuities had "been paid according to treaty stipulations." It was found they had not; that there was a large amount due to the Choctaws, under specific treaty provisions, which had never been paid. This fact was reported to Congress, and that body requested to make the necessary appropriation. But "one of the Houses," wanting further information on the subject, made a call for it on the honorable Secretary of the Interior. This call was made nearly two years ago, and the information has not yet been furnished, nor the appropriation made. Who is chargeable with this delay, or whether any one is to blame for it, we do not pretend to judge; but one thing is certain—that had we ever entertained any expectation or hope of effecting anything towards the settlement of our affairs, through a "call of Congress, or one of the Houses," this circumstance would have completely annihilated it.

Sir, we regret that this paper is so long—that we could not, in justice to our people, make it shorter. Our business is complicated and important; involving many weighty facts, circumstances and issues, not a few of which we have omitted to state. There is one point, however, which a deep sense of solemn responsibility constrains us to state before closing; and that is, that the future of the Choctaws materially depends upon what is now done, or omitted to be done, for them. They have arrived at a critical point in their history. They have made great advances in civilization. This has been done mainly by education. To promote this great cause, they have exerted every energy, and used all the means and resources they could command, for the purpose. These are, however, in a measure, failing; and public spirit on the subject, which has been sedulously cultivated and promoted in every possible way, is in danger of languishing, and the Choctaws of becoming discouraged and retrograding. In their anxiety upon the subject, they are beginning to see and realize how slow is their progress, and how little is accomplished, compared with what might be effected if their means were more ample. They know that the government owes them sufficient to enable them to meet the exigencies of their situation; and they feel keenly its injustice towards them, in the withholding of their just dues. In short, they have arrived at that point where continued injustice may ruin, or justice and magnanimity preserve, advance, and perpetuate them, as an educated, moral, industrious, and prosperous people. We believe that the issue is now in your hands. We leave it with you, hoping that you will perceive its importance, and the possible consequences involved in it. We believe, too, that it presents one of those happy occasions, seldom occurring in the life of any one man, when, by the manifestation of only a commendable

degree of personal interest, and a laudable exercise of authority, conferred for noble purposes, he can materially contribute to promote the improvement, welfare, and happiness of a whole people, and embalm his name and memory in their hearts, and in those of generations to succeed them.

Earnestly and hopefully commending the cause of the Choctaws to your kind and generous consideration, we have the honor to subscribe ourselves your excellency's friends and servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND,
DICKSON W. LEWIS.

WASHINGTON CITY, *February 3, 1855.*

WASHINGTON CITY, *April 5, 1854.*

SIR: After some deliberation about the best course for us to pursue in relation to the leading object of our visit to this city, as delegates of the Choctaw nation, we have concluded to explain and submit it in writing, and therefore respectfully address you this communication.

The Choctaws have reached an important stage in their history and progress; having emerged from a state of pupilage, and become sufficiently capable of taking care of themselves to justify material changes in their political and pecuniary relations with the United States. And they are anxious to effect such changes, in those respects, as may be agreeable to the government, and have a tendency to promote their advancement and prosperity.

Hoping that the recent movement in Congress, with reference to some modifications in our political relations, will lead to such as are necessary and desirable, we will not trouble you with any remarks upon that branch of the subject, but confine ourselves to that of our pecuniary affairs and interests, as connected with the government. These, including all questions of rights and claims of every description against the government, it is our earnest wish to have finally adjusted and closed, so as to put an end to all further contentions with the United States in relation thereto, and to release us from that condition of uncertainty and dependence, in which we have so long been placed, and which has so fatal an influence in repressing enterprise and industry among our people.

We might call your attention to many subjects and causes of dissatisfaction, but we shall notice only a few arising under the treaty of "Dancing Rabbit Creek." Nearly twenty-four years have elapsed since that treaty was made, during the whole of which time there have been contests and disputes of one kind or another, in regard to the execution of its different stipulations, which, to a greater or less extent, have kept our people in a state of perplexity, uncertainty, and dependence, extremely embarrassing and prejudicial to their interests and welfare. It is the fixed sentiment of our people, that scarcely one of

its executive stipulations has been carried out by the government in a manner to do justice, and according to its intent.

Under the 14th article of the treaty, every head of a family in the nation could have remained east, and acquired sufficient quantities of land out of the ceded territory to have made them all independent. The great body of the people, however, yielded to the policy and solicitations of the government, and consented to remove west.

We were to have had ample time to prepare therefor, but every means and appliance was used to hurry us off, and the emigration was disastrous in the extreme, in the loss of both life and property.

No means were provided to enable us to take with us such of our personal effects as were indispensable to our comfort and necessities, in re-establishing ourselves in a new and wilderness country, and no opportunity given us to dispose of them. We were pushed off, and told by the agents of the government to leave them—that they would be paid for; but not a cent of indemnity therefor did we ever obtain. The treaty stipulated that our cattle should be valued and paid for, or others furnished, west; but, in a very large number of cases, no such valuation was made, and, of course, no compensation, in money or other cattle, obtained.

There are hundreds of just claims of this kind in the nation, which we have found it to be hopeless to urge on the government.

Some of the more independent of our people refused to be hurried off by the government agents, and to be removed under the uncomfortable arrangements provided. They preferred to, and did, remove and subsist themselves; thereby acquiring a right to compensation therefor, but which many have never received.

Consider the history of the execution of the 14th article of the treaty, and the wrong and injustice thereby inflicted upon a large portion of that class who elected to take advantage of its provisions. Their reservations were sold from them by the government as public land, or they were forcibly dispossessed of, or by threats and intimidations driven from them, by heartless and lawless white men. When these facts became known to the government, justice required that it should repossess them of their property, but no effort for that purpose was made. They were told that their reservations were gone, and could not be restored.

For years they were petitioners in vain for some just remuneration for their lost rights; and when, at last, a law was passed for an examination of their claims, it prescribed a course of adjudication of so rigid and technical a character, as, necessarily, to exclude many just claims. Those that did not come within the exact measure of this strict and restrictive law were rejected, though, in justice and equity, they were, under the circumstances, full as meritorious as those that were allowed. From lapse of time, and death and dispersion of witnesses, cases that did not come within the specific requirements of the law could not be established.

The investigation was such as could be successfully met only by intelligent persons, familiar with judicial proceedings, and who had known, from the first, the importance of preserving and preparing for the establishment of every fact connected with the loss of their rights.

Not one of the claimants could meet it without the assistance of able and astute attorneys, whom they were all compelled to employ, and to agree to pay one-half of what was recovered for them.

Many of the reservees, despairing of obtaining any remuneration from the government for their lost rights, and being destitute of means and resources, were compelled to take a refuge with their brethren in the west, before the law passed for the adjudication of the claims. All such, the law cut off entirely, because they had removed; while, in the case of those who remained, and whose rights were established, the government withheld the inadequate compensation it determined to allow them, unless they did remove; though they were citizens of Mississippi, and, by the treaty, were entitled to remain and enjoy all their rights there. It is true, that a portion of one-half of the scrip that was granted them, in lieu of their lost reservations, was paid east of the Mississippi river; but it was paid in such a manner that it all went into the hands of attorneys and speculators, and was of no benefit whatever to its rightful owners. Most of that which was paid to them, was issued in the Choctaw country west, where they could not locate it; and it was comparatively valueless. They had to dispose of it for what they could get from speculators, combined together to obtain it at the lowest rates. The price realized was seldom greater than about thirty-one and a quarter cents per acre—only one-fourth of the lowest price they could have obtained for the lands they could have located with the scrip, had it been given to them east. Their own lands, to which they were entitled under the treaty, but of which they were dispossessed, they could have sold, in many cases, for from five to ten dollars an acre.

The result is, that those who have obtained anything, have received the merest pittance—a compensation wholly inadequate; while there are hundreds, whose claims are quite as just and meritorious as those that have been allowed, that have never received anything.

The 19th article of the treaty likewise granted reservations, of limited extent, to particular classes of our people, without the condition prescribed by the 14th article, of their remaining thereon, and which they were at liberty to sell with the assent of the President. But, if these preferred or omitted to take the reservations, they were to be compensated therefor in money, at the rate of fifteen cents per acre. Many claims of this class remain unadjusted and unpaid, notwithstanding the repeated solicitations, prayers, and efforts of our people to obtain a settlement of them.

But we will not proceed further with this painful recital of individual rights sacrificed and neglected. The claims that have grown out of them are numerous and just, and ought to be settled. They have continued to be asserted and urged, from time to time, for more than twenty years, but without effect. It is hopeless longer to press them upon the government, as they cannot now be proved up with that accuracy and certainty which it requires in all cases to avoid fraud and imposition.

They can be settled, in a manner to do justice, only by ourselves. We know the parties and all the facts connected with their demands; and how far the latter are well founded, and worthy of compensation,

or otherwise. So long as they remain unadjusted, our people will be kept in a state of controversy and excitement. The authorities of the nation, and our agent, will continue to be importuned, as they are now, so that they will have no peace in regard to them; while the claimants, in the hope of obtaining justice, will continue to rely on the expectation thereof, to the neglect of all other duties and interests; setting an example of idleness, pernicious and hurtful to others, and too likely to be followed by many.

There are, also, important national claims and pecuniary rights requiring to be adjusted and settled. We will, however, mention now only one case of this kind in which injustice has been done to us—deferring, till a more appropriate occasion, a full and complete exposition on this subject, should it become necessary. We refer to the simple matter of "arrearages," payable to us as annuities, about which there should have been no mistake or difficulty. The amounts are fixed, and should have been paid over regularly and without abatement; but this has not been done.

An investigation, in the office where the vouchers and evidence of all the payments and expenditures to and for us are kept, made at the instance of your office, nearly two years ago, shows, beyond dispute, that of the amounts due and payable on this account, from 1831 to 1850, the considerable sum of over ninety thousand dollars has been withheld and never paid.

We wish to make an arrangement for a final adjustment of all such matters, both individual and national. We propose to release the government from all further obligation and liability in regard to the former; which we will assume and settle, with the assistance of our agent, out of our own funds, if we can obtain and have the requisite control over what is justly and fairly due to us. What would be the aggregate of the amount to which we are entitled, we do not know. A proper investigation would be necessary to ascertain it. Such portion of it as might not be required for the satisfaction of the private rights and claims, which we propose to assume, we wish to consolidate or convert into one single national fund, applicable to great national objects and purposes only; such as education, necessary governmental expenses, on an economical scale, and legitimate and proper objects of internal improvement; as roads, bridges, mills, mechanical establishments, and agriculture. We desire to put an end, now and forever, to everything like distributive annuities, which we consider a curse instead of a benefit.

To secure the desirable and important ends we have thus briefly and imperfectly submitted, a new treaty will be necessary, which we are fully empowered to enter into, should it be the pleasure of the government to entertain and consent to the proposition. We would also be glad to enter into a new treaty, for the excellent reasons recommended in your annual report—to establish one simple code, easily understood and administered, in lieu of the crude, inharmonious, and, in some cases, inconsistent, stipulations of our various existing treaties.

From motives of delicacy, we have abstained from consulting our esteemed agent upon the subject of this communication; leaving him

free to be first consulted by the department thereon, so far as it may think proper so to do.

With great respect, we have the honor to be, sir, your most obedient servant,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND,
DICKSON W. LEWIS,
Choctaw delegates.

Hon. G. W. MANNYPENNY,
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, April 13, 1854.

SIR: I have the honor to submit, for your consideration, a communication from the Choctaw delegation, now in this city, proposing an arrangement for the purpose of settling all outstanding matters between them and the government, and of substituting one simple convention, in lieu of the complex and somewhat heterogeneous treaty provisions now in force between their tribe and the United States, in conformity with the general recommendation in my annual report, in favor of such an arrangement as the latter with all the tribes similarly situated.

The proposition is one deserving of the favorable consideration of the department. There are, doubtless, outstanding matters with these Indians that should be finally adjusted and closed; and a new convention of a proper character, in lieu of those now existing, would much simplify our relations with the Choctaws, and save much trouble and embarrassment in the management of their affairs.

The subject will, however, require preliminary investigation and conference with the delegation, which my other pressing engagements will not admit of my attending to in person.

I therefore recommend that this duty be assigned to agent Cooper, who is now here, so that the department may be fully informed of the magnitude and nature of the claims of the Choctaws, and be better prepared to enter into such an arrangement with the delegation as may be suitable and proper for the accomplishment of the objects in view.

Very respectfully, your obedient servant,

GEO. W. MANNYPENNY,
Commissioner.

Hon. R. McCLELLAND,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, April 15, 1854.

SIR: I have considered the subject of your letter of the 13th instant, submitting a proposition of the Choctaw delegation, now in this city, to settle all outstanding matters between them and the government, and of substituting a simple convention in lieu of the treaty provisions now in force; and approve your recommendation of the course which should be pursued for the accomplishment of the objects in view, and request that you will take the necessary action to carry into effect the arrangements proposed.

The paper which accompanied your letter is herewith returned.

I am, sir, very respectfully, your obedient servant,
 R. McCLELLAND, *Secretary.*

COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, April 20, 1854.

SIR: Enclosed is a copy of a communication from the Choctaw delegation, proposing a new arrangement for the purpose of settling all outstanding matters, and simplifying the relations between their tribe and the United States.

I enclose also a copy of my letter to the Secretary of the Interior, submitting said communication to him. He having approved the recommendation therein contained, the duty is accordingly assigned to you to confer with the delegation, and make the requisite inquiry and investigation to ascertain the character and extent of the claims of the Choctaws, and the arrangement that will be necessary to accomplish the object in view. You will proceed to the performance of this duty without delay, and report the result of your investigation and views upon the subject.

Very respectfully, your obedient servant,
 GEO. W. MARYPENNY,
Commissioner.

DOUGLAS H. COOPER, Esq.,
United States Agent for Choctaws, present.

A.

WASHINGTON CITY, *May 1, 1854.*

SIR: In regard to that portion of your letter of the 20th ultimo, which we acknowledged on the same day, inviting a communication from us in relation to the character and extent of the claim of the Choctaws against the United States, we beg leave to remark that we have not assumed the position of contending for the payment of any

particular claims by the United States. That there are just claims to a large amount, arising under the Dancing Rabbit Creek treaty, which have never been settled, you cannot but be aware, from what you have already learned during your brief official connexion with our people. To the more important classes of these claims, we briefly adverted in our letter to the honorable Commissioner of Indian Affairs of the 5th ultimo, which has been referred to you. We also stated some of the reasons why, at this late day, we never could hope to effect a just settlement of them by the government. The unavailing efforts of twenty years to accomplish that object, leave no ground for any other conclusion. The most of the claims depend upon facts, which our people are unable to establish in such manner as to bring them within any rule of adjudication and settlement which the government has been, or will be, willing to adopt. We have been dealt with as though we were intelligent white men; having the capacity, and knowing the importance of collecting and preserving evidence in relation to the claims. From lapse of time, these facts cannot now be substantiated to the satisfaction of the government. They have, in a measure, become only traditional; yet the claims are not the less just, and ought to be settled. Until this is done in some way, neither the authorities of the nation, nor our agent, will be free from embarrassing and perplexing importunity upon the subject. An Indian never gives up a claim which he knows to be just, but will continue to urge and press it at every opportunity. And, unfortunately, he will, as a general rule, do very little else tending to his advantage. He will live on in hope of obtaining his demand, and the result is a life of idleness and misery. From the number of those among our people having unjust claims, we have seen but too many such examples.

Though these individual claims can never be proved up, so that justice can be done directly by the government, they are known, or can be ascertained among ourselves, and, with your assistance, they can be justly and satisfactorily disposed of, so as to put an end to them for ever. This we are willing to do out of our own funds, if we can effect such a national settlement and arrangement with the government as we and our people desire. As to the extent of these claims, we are not in a situation at present to furnish any accurate information. We have not the means of making any reliable estimate of their amount. They are known to be numerous, and it will require a very large sum to satisfy them. Should the department insist on an estimate of them, we must ask your kind assistance in the preparation of one.

We now proceed to explain the arrangement and settlement we desire to make.

Under the 18th article of the treaty of Dancing Rabbit Creek, we are entitled to the fund arising from the sale of our lands, ceded under that instrument; subject, of course, to a deduction of the expenses of surveying and selling them, and of the amount of the several pecuniary obligations and payments provided for in the treaty, and which constituted "the debt" to "be provided for and arranged," mentioned in the 18th article. The proceeds of the lands were not to be paid over to us as the latter were sold, but were to be retained and preserved by the government, and remain a pledged fund until the

payment of the obligations, or debts referred to, had been completed. The reason of this arrangement was, that it was not known when or for what prices the lands would sell. No reasonable calculation could be made as to when their sale would afford any particular amount of income; and, in the mean time, it was necessary to make provision for the emigration and subsistence of such as could be disposed to remove; compensation for property which they would not take with them; annual means of support, after removal, for a series of years; purposes of education, &c., &c. Provision was made in the treaty accordingly: the principal payments being an annuity of \$20,000; expense of educating a specified number of youths; and the employment of certain teachers. These were to run for twenty years, which would give ample time, as was supposed, for the sale of the lands, or of all that were of any material value.

The fund arising from the sale of the lands being pledged to remain with the government until the payment of the debts, we were, of course, precluded from calling for it until they had been paid. Some of them, of an individual character, are not yet paid, as already stated; but, for the reasons given, there seems no reasonable ground for hope that they ever will be, unless in the manner suggested. The principal debts have, nominally, been paid, though, in respect to annuity, the payments have fallen short of the aggregate of the amount specified in the treaty, some ninety thousand dollars, as stated in our letter to the Commissioner of Indian Affairs. The time for their payment has, however, expired, and we therefore feel justified in now calling upon the government for a settlement under the treaty. We presume there can exist no just cause of difficulty in making a settlement, so far as the lands have been sold. But a portion of them yet remain undisposed of; and, in order to make a final settlement with the United States, as we are anxious to do, we wish to relinquish all claims to, or on account of them, for such a rate or amount of consideration as may be fair and just, and the government is willing to allow. To effect this purpose, and to relieve the United States from all further liability on account of the unadjusted individual claims under the treaty, and to provide for their settlement and payment by ourselves, a new treaty will be necessary; by which, also, we desire to accomplish the other object stated in our communication to the honorable commissioner, viz: the simplification of our relations with the United States, by the substitution of one plain, simple convention for all the various stipulations of the several treaties between us now in force.

We have thus briefly stated what we desire, and our understanding of our pecuniary rights under the treaty of 1830, which is in strict conformity with justice, and with what the commissioners, who negotiated the treaty, promised. The 18th article of the treaty being, however, somewhat vague and inexplicit, may be liable to have a construction put upon it that would do us great wrong and injustice, by those unacquainted with the circumstances of our position at the time of the treaty, and important facts in relation to the latter, having a material bearing in regard to its correct interpretation on the point under consideration. We deem it proper, therefore, to submit, in as

short a compass as we can state them, the grounds upon which our view of the question is founded.

Prior to the treaty of Doak's Stand, in 1820, the Choctaws had made large cessions of territory to the United States, without receiving any just or adequate equivalent. For one of a considerable extent of territory, made by the treaty of 1802, only the pitiful sum of one dollar, and a small quantity of dry goods and a few other articles, were agreed to be given by the United States. Having derived no substantial advantage from these cessions, and parted with all the lands which they believed they could spare, the Choctaws determined to keep what remained to them for their own use, and to cede no more. This determination did not, however, avail them. The government was equally determined to have more, and, by threats and intimidation, drove them into the making of the further cession of 1820. To provide effectually for the accomplishment of the object, they sent to us, as one of the commissioners on that occasion, that great man and master-spirit, General Andrew Jackson, under whom the Choctaws had fought on the side of the United States in 1813 and 1814, and whom they loved and respected. Notwithstanding their great regard for him, however, they were wholly unwilling to agree to treat for a further cession of their lands, but were driven to do so in the manner stated.

The commissioners informed the Secretary of War that they found the Indians very much opposed to ceding or exchanging any land; that every chief was threatened with death if he consented to sell or exchange an acre; but that presents, judiciously applied to a few chiefs and influential men, to the amount of some \$4,700, with a seasonable admixture of threats and cajolery, effected the desired exchange.

The Indians were told that the President had purchased land for them west of the Mississippi, (to which some of the more restless of the Choctaws had gone;) that those who would remove there would find a good country; and those who chose to remain could do so. They were threatened that, if they would not treat, a treaty would be made with those who had gone west of the Mississippi, in which case the United States might take their lands east for those west, acre for acre, and a cession be thus obtained that would cut up the country east, so as to infringe upon their population and destroy their schools. They were distinctly told that no other talk would ever be delivered by the President to the Choctaws east of the Mississippi; and that if they refused to treat, the patience of the President would be exhausted; they must submit to the consequences, and the nation be discarded from the friendship and protection of the whites; that the Choctaws and the whites could no longer be friends and brothers, and the Choctaw name would be irrevocably lost; that General Jackson had come to preserve them, and if they did not treat no foresight could calculate their distresses; that a heavy cloud might burst upon them, and they would be without friends to counsel or protect them; and that their existence was in their own hands, as a refusal to treat might be fatal to them as a nation. They were, over and over, assured that all who chose to remain might do so and be happy; that those who did should become citizens of the United States, and have suitable reservations,

including their improvements, and be protected by the laws of the United States; that the President would *give* them the land west of the Mississippi, and there perpetuate them as a nation; that their white brethren would not then ask them for any more land, and they were only required to cede such a part as would not interfere with their schools, or infringe upon the great body of their population; that the President wished to perpetuate the Choctaws as a nation, by collecting all who had emigrated, or should emigrate, and settling them together, *upon land of their own*, beyond the Mississippi; that if they did not treat, Congress would take the business into its own hands, as they had a right, by the treaty of Hopewell, to manage the affairs of the Choctaw nation; that if they would cede part of their lands, the pegs should be driven down, and the lines distinctly marked, so that they could never be altered until they requested it themselves, or until they were advanced to that state of civilization when the land would be apportioned out to each family or individual in the nation.

Such was the conduct of the government towards us on that memorable occasion, when, by bribery of some of our chief men, and by "threats and cajolery," we were betrayed and coerced into the treaty of 1820, and a further cession of lands, contrary to our wishes and previous solemn determination.

That treaty ceded and conveyed to us our present country west of the Mississippi, in part satisfaction of the cession made by us east. The country west was not ceded to us, "to be held as other Indian lands are held," as is generally, if not universally, the case when the mere Indian title is conveyed. It was an out-and-out cession of the country, which we purchased with a large and important part of our cherished and far more valuable possessions east of the Mississippi. It was conveyed to us as land of our own, where we were to be perpetuated, as stated by General Jackson, and therefore in perpetuity, and, consequently, in fee simple. It was intended and understood as a grant in fee simple—as a purchase, as such, by the Choctaws. The Secretary of War (Mr. Calhoun) regarded and recognized the transaction as a full and complete purchase and sale; and when, in 1825, he purchased back from us a portion of our western country, lying within the present limits of the State of Arkansas, he inserted in the treaty, on that occasion, that the new line then established should "*constitute and remain the permanent boundary between the United States and the Choctaws.*" The delegation with which this treaty was made had urged that this should be expressed in the strongest possible terms; and, in answer to an inquiry from the War Department on the subject, in 1826, under another administration of that department, the officers in charge of the Indian Bureau stated, or intimated, that our lands west were "guaranteed to us forever." Commissioners appointed in that year by the government to endeavor to buy out our remaining lands in Mississippi said the same thing. Thus we had a full, complete, and permanent title to our present country, which no after treaty stipulation or law was needed to complete or strengthen.

The treaty of 1820 secured, or stipulated to secure, to us a similar title to our remaining lands in Mississippi. General Jackson then told us that, at a future time, these lands should "be apportioned out

to each family or individual in the nation;" in fee simple, of course, and a provision to that effect was accordingly inserted in the treaty.

The result of the foregoing facts is, that the cession of our remaining country east, by the treaty of 1830, was not a cession of a mere possessory right to them, but of one that was a complete and permanent character, fully equivalent to, if not in fact, a fee-simple title. And the lands west, again guarantied to us by the treaty of 1830, formed no part of the compensation for the cession of those east. We already owned and held them by a title equal in validity and strength to that assured to us in the treaty of 1830; and the provision in that instrument on the subject was not put there to strengthen our tenure, or to change it into one of a really different character, but to give us a specific pledge of permanent title, to be embodied in a patent, in conformity with the policy of the act of Congress, then but recently passed, of May 28, 1830. These facts are of material importance, with reference to any vagueness or inexplicitness in the treaty, on the question of our right to the proceeds of our lands, or to any doubt as to the proper and just construction of that instrument on that point.

Before proceeding to cite other facts, still more important on this point, connected with the inception and formation of the treaty of 1830, we will here state, that although every assurance was given to us by the commissioners who made the treaty of 1820, that we were to remain in the undisturbed and permanent possession of our remaining lands, east, and they were secured to us by the treaty, to be eventually divided among us in fee simple, yet, only a few years had elapsed when possession of them was sought by the government; a commission having been appointed to obtain them in 1826. Those commissioners offered us one million of dollars; payment of the value of our improvements—equal to half a million more; expenses of our emigration and subsistence; and reservations to the extent of 300,000 acres. We refused to treat on any terms, being determined not to dispose of our remaining lands. This was the feeling of the nation when we were again approached, for the same object, in 1830. Some restless, dissatisfied, and mischievous persons among us, however, took it upon themselves to cause it to be intimated to the government that we were desirous of selling our lands; and this was made the pretext for sending commissioners to treat with us therefor. Our fixed determination to the contrary was again overcome as in 1820, and in a somewhat similar manner.

We were told by the commissioners that if we did not cede our lands and remove west, the State laws would be extended over us, and we would be liable to be sued in the courts, and to be tried and punished for any offences we might commit, and be subjected to taxes, compelled to work on roads, and attend musters, because Congress had not the power to prevent the States from extending their jurisdiction over us; that if we persisted in remaining east of the Mississippi we must surrender the lands west, and there would be no more offers to treat with us, no more commissioners sent to us, and we would be left to ourselves and to the operation of the State laws. After hearing the first talk of the commissioners, we refused to treat; but after similar

representations, and the liberal inducements held out to us, the treaty was agreed on, and signed in great haste, and amidst much confusion and excitement. A large portion of our people were greatly opposed to it. There was so much feeling upon the subject, that it was dangerous for the commissioners to remain, and they had to hurry off immediately after the treaty.

From what the commissioners promised and said to us, we clearly understood that we were to receive the full benefit of the proceeds of our lands when they were sold. They said: "It is not your lands, but your happiness, that we seek; we seek no advantages, and will take none. Your Great Father would not approve such a course. He has sent us not as traders, but as friends and brothers, and to act as such. We will thus act, be assured. We come not to practice imposition upon our Choctaw friends, but to extend to them justice. This we will do." * * They had come to protect the Choctaws from injury, "not to cavil with them about prices. *As for their lands the government cared nothing, for it had enough. Their object was merely the possession of the country, without regard to anything of value or profit to be obtained from its sale.*" We were given clearly to understand, not only that the United States were to receive nothing of the "value or profit" from the sale of the lands, but that the benefit thereof was to inure to us, and we understood the treaty to provide accordingly; though, as stated, it was completed under circumstances of great confusion and excitement, so that it was difficult for us to obtain a clear comprehension of the precise force and effect of its provisions as written out; and it was read to us but once before it was signed.

Among the chief inducements to many of our people to assent to the treaty were the stipulations for reservations in the 14th and 19th articles, particularly the former; under which all that chose to do so could remain, and receive quantities of land sufficient to make them independent. The reservations of this class, according to the talks of the commissioners, were not to be assigned merely as so much land, but were to be taken with reference to a stated rate of value, viz: the minimum price of government lands; and those who received them were not to participate in the pecuniary benefits of the treaty. There was thus to be a kind of settlement between those who remained and those who should emigrate, with reference to the benefit to be derived from the value of the land. The former were to receive, as their share, large portions of the land, according to its estimated real value, and the latter the benefit of the remainder. If this were not so, why fix a rate of value for the lands to be taken out of the cession by the reservations, as was done by the commissioners?

There was a large portion of our people disposed to remain and take reservations; but, as the principal object of the government in making the treaty was to effect our removal, and it was anxious, and urged and insisted that we should go, and as we were to get the benefit of the value of our lands, the great body were induced to forego the privilege of remaining, and to submit to the policy of the government by emigrating.

We will now call your attention to the provisions of the treaty itself. The 18th article says: "And for the payment of the several amounts

secured in this treaty, the lands hereby ceded are to remain a fund pledged to that purpose until the debt shall be provided for and arranged." Now, the lands could not constitute a fund, nor was it them that were to remain pledged for the payments mentioned in the treaty; for they were to be surveyed and sold. It was the proceeds thereof that were to remain a pledged fund. This and other loose and unprecise language in the treaty shows how inartificially it was drawn up, (to use an expression of a former Commissioner of Indian Affairs we have heard of, in relation to the treaty made with the Cherokees in 1835,) and how easily a construction might be placed upon some of its provisions that would do us great injustice. Not a dollar of this fund was to be touched; it was to remain pledged as it accumulated. The government could not use any portion of it for its own purposes; it was to remain a sacred trust, to be held inviolate for our ultimate use and benefit. We presume it has been held and reserved intact, though, reposing on the pledge in the treaty, we have not felt at liberty to intimate a doubt of the good faith of the government by making even an inquiry on that subject.

If this fund was not to belong to us, after the payments mentioned in the treaty—the debt therein referred to—had been "provided for and arranged," why was a provision so novel and unusual in an Indian treaty inserted in that with us? There was certainly no necessity therefor if the fund was to belong to the government. It had ample means, to say nothing of its credit. It had then, as now, a rapidly accumulating revenue, which, in a few years, enabled it to pay off the whole of its national debt, and to distribute a large surplus among the different States. No such pledge was, therefore, necessary to secure the comparatively paltry payments, for special purposes, provided for in the treaty; and the Choctaws did not require, or even think of requiring, any security for that purpose. Why, also, if we had no further interest in the lands after their cession—if they and all their proceeds belonged entirely to the government—was it necessary or expedient to make the stipulation with us, for their survey and sale, that is contained in this same 18th article of the treaty? If we had no further rights in regard to them, it would have mattered not to us what became of them. The government could have done anything it pleased with them. It could have surveyed and sold them, or not, as it chose. It could even have given them all away as they stood, without survey, had it deemed such a disposition of them expedient and proper. But, sir, there is not a doubt on our minds upon this subject. These provisions were put in the treaty for our sole and exclusive benefit, and to carry out the promises of the commissioners, and the understanding founded thereon—that we, and not the government, were to have the whole of "the value or profit" of our lands. The fund, after the payment of the proper charges upon it, therefore, belongs to us, and not to the government. Such was our understanding, and such is the treaty—justly and fairly construed. But were there any just ground for doubt on this subject—which we do not admit—this 18th article of the treaty is wound up and closed with the very significant provision, "that, in the construction of this treaty, wherever well-founded doubt shall arise, it shall be construed most favorably towards the Choctaws."

The addition of this stipulation, to this particular article, is significant. To us it was, pecuniarily, the most important article in the treaty; and with respect to it, particularly, if there should be any doubt as to its just construction, it was to "be construed most favorably towards the Choctaws."

It may be asked why, if it was the understanding and intention that we were to have the actual proceeds of our lands, this was not clearly and specifically expressed in the treaty? To this we can only answer, that such was our understanding, and such the intention of the commissioners, as their talks to us show, though, as written out and printed, they fall short of what was said and promised to us. It is clear therefrom, that the United States did not seek or desire any portion of the benefit of the "value or profit" that might be derived from the sale of the lands; and that it was, consequently, to inure to the Choctaws. The commissioners were gentlemen of high standing and character. We had confidence in them, and that they would so fix the treaty as to perfect and carry out what they had clearly given us to understand, and they had promised. We supposed this was done, and have never entertained a doubt on the subject. The treaty, it is true, might have been more explicit; and, but for our reliance upon the commissioners, we might have looked more closely to its exact wording. But Indians never confide partially; and we had full confidence in the commissioners, and supposed the treaty was all right. And we were compelled to rely upon them the more, because, as we have stated, the treaty was made and signed under circumstances that prevented our people from having the opportunity to examine and reflect upon its phraseology, that their limited intelligence and want of education required, to enable them to comprehend whether their understanding of it, on all points, was fully and clearly expressed.

We have said that our view of our pecuniary rights, under the treaty of 1830, is in accordance with justice. We already owned the lands west. They are not, in any respect, to be considered as constituting any part of the compensation to be made us for those east. The latter we owned and held under assurances and pledges, which gave us a title to them of far greater dignity and strength than what is generally known as the mere "Indian title." We held, or had a right to them, under a fee-simple title, and we were therefore entitled to their full value, according to what they could be sold for by a judicious course of management. Were we denied their proceeds, and confined to the comparatively paltry sums, for particular purposes, specified in the treaty, we should be deprived of what is just and right, and was promised to us, and the treaty would be made a cheat and a fraud.

The reservations, and payments to individuals, comprised no part of the compensation for the country ceded. The former, and, in part, the latter, were nothing less than bribes or inducements, held out to the cupidity of individuals, to procure their assent to the treaty; and such of the latter as did not partake of this character, were mere indemnity for individual property. We have not the means of making an exact calculation, but all the other obligations and payments men-

tioned in the treaty, that could in any way be considered as constituting compensation for our country, fall considerably short of one million of dollars, as we have no doubt you will find on an examination of that point. They do not amount to half of what we were offered in 1826, when we promptly, and without hesitation, rejected the proposition and offers of the government; and it is certainly not to be regarded as at all likely, that, only four years after that time, with no change in our sentiments against ceding our country, we would consent to receive a sum therefor materially less than we had then refused. It is known that the value of our improvements, not provided for in the treaty, and the property lost by us during emigration, would amount to more than the aggregate of the obligations and payments referred to; so that, in fact, unless we obtain what we are now contending we are entitled to, we shall receive no real compensation whatever for the large and valuable cession made by us in the treaty of 1830.

We ceded over or full seven millions of acres of as fine and valuable country as the government ever obtained from any Indian tribe; and the obligations and payments to which we have referred, mentioned in the treaty, would not constitute a compensation anything like adequate, even for the mere Indian title, while that by which we held the country was of far greater value, and entitled us to a far larger measure of compensation.

In claiming the proceeds of our lands, we ask for nothing more than was allowed to other tribes about the same time, and even to some who held their possessions only by the generally and unjustly depreciated "Indian title." It was conceded to the Chickasaws and others as a right to which they were entitled. The former lived by our side, and their country, though adjoining ours, was less desirable and valuable, and they held it only by the Indian title. We know of no reason why we should be less liberally dealt with. On the contrary, we believe that if there be any one Indian tribe, which, more than any other, is deserving of generous and magnanimous treatment by the government, that tribe is the Choctaws. Our relations with the United States have always been of an important character—more so than those of most other tribes; but we have given the government less trouble and concern, we venture to assert, than any other of our strength and importance.

The Choctaws have always been the fast friends of the United States and their citizens. They have stood by them in war, fought on their side, and freely shed their blood in their defence. Neither the eloquence of the renowned Tecumseh, nor the rich presents sent to them by the British, during the last war with that power, could induce them to break their pledges of friendship and fidelity. They were importuned and beseeched by their misled brethren, the Creeks, to join them in their hostilities against the United States. They refused. The Creeks then begged them to remain neutral. They answered by sending that great captain, General Jackson, an effective force, to aid him in subduing them; while, during the hostilities, they guarded and saved from destruction many of the white settlements in that section of the country. The Choctaws have never raised the hatchet against

the United States; they have never stained their hands with the blood of a white man; and no American citizen has ever had good cause to complain of wrong or injustice received at their hands. They have always submitted, quietly and uncomplainingly, to the policy and wishes of the government—too much so, in fact, for their own interests. Other tribes, that have acted differently, have been treated with far more liberality.

We ask you, our respected agent and friend, and at the same time the representative and friend of the government, to examine somewhat into our past transactions with it; to ascertain the vast amount of territory we have ceded to it at different times, and for how inadequate an amount of consideration, and to satisfy yourself whether our unvarying good faith, long-tried fidelity, quiet submission to the policy of the government, and the very limited and inadequate benefits we have received from it in return, do not now, at so important a crisis in the history of our people, entitle us, and our views and wishes, to the most liberal and generous consideration.

With great regard, your obedient and humble servants,
 P. P. PITCHLYNN,
 ISRAEL FOLSOM,
 SAMUEL GARLAND,
 DICKSON W. LEWIS,
Choctaw Delegation.

Gen. DOUGLAS H. COOPER,
United States Agent for Choctaws, Washington city.

B.

WASHINGTON, *May 25, 1854.*

SIR: on the receipt of your letter of instructions, of the 20th ultimo, I immediately notified the Choctaw delegation of the purport thereof, a copy of my communication to them being herewith enclosed, marked A.

From their answer, marked B, you will perceive that, being unable to anticipate what action would be had on their communication to you of April 5, (marked C,) they were not prepared, forthwith, to submit an exposition of their views and wishes in reference to the matters which you instructed me to investigate and report upon, viz: "the character and extent of the claims of the Choctaws," and "the arrangement necessary for the purpose of settling all outstanding matters, and simplifying the relations between the tribe and the United States."

Their subsequent communication, of the 1st instant, marked D, contains a full exposition of the character and the *extent*, in *principle*, of the demands of the Choctaws, as asserted by the delegation, and, in connexion with their communication to you, explains what they wish to have done, in order to settle, finally, all outstanding matters of a pecuniary nature between their tribe and the government.

Their letter of the 15th instant, marked E,* embraces an outline of such provisions as they think necessary and desirable, to be substituted for the various stipulations of the different treaties now in force, for the purpose of simplifying and more accurately defining their relations with the United States.

It will be seen, that by a construction which the delegation place upon the 18th article of the Choctaw treaty of 1830, in connexion with facts and circumstances which they state, showing the position and rights of the Choctaws under previous treaties of 1820 and 1825, and the explanations and promises of the commissioners who negotiated the treaty of 1830, they claim that their people are entitled to the net proceeds of the lands ceded by them in 1830, after deducting the expense of their survey and sale, and the amount of the various obligations, or "debts," provided for in the treaty, so far as they have been discharged, for the payment of which the lands were pledged, to remain a fund for that purpose, under the 18th article.

For reasons which they state, they urge the government now to settle with them on this principle, so far as the lands have been disposed of, and that for those remaining unsold they be allowed a fair and reasonable compensation.

They contend that a large amount of the obligations, or "debts," provided for in the treaty of 1830, remain unadjusted and unpaid; that there is no longer ground for hope that they will or can be settled, in detail, by the United States; that this can only be done by the Choctaw nation, so as to secure some measure of justice with respect to the numerous individual rights still remaining unadjusted, and they propose to release the United States from all outstanding claims under the treaty, and to settle and pay them themselves, out of whatever amount would be left to them, on the principle of settlement above stated.

I have examined with much care and deliberation, the communication of the delegates from the Choctaws, of the 1st instant, in which they assert the claim to the proceeds of the sales of the lands embraced in the cession of 1830, and have found the statement of facts and circumstances therein set forth, to be, in the main, substantially correct, according to official documents.

With reference to the treaty of 1820, see American State Papers, Indian Affairs, vol. 2, pages 230, 231, 242, 244, 234-'5-'7-'9, 240, 235-'6-'8-'9, 240, 702, 703, following the order in which the different facts and circumstances are stated. In regard to the treaty of 1825, see the same papers, 549, 552; attempted negotiations in 1826, same papers, 709 to 717; treaty of 1830, see Senate Doc. 512, part 2d, Indian removal, 1st session 23d Congress, pages 256-'7-'8, 259, 260-'1-'2-'3.

While I think the delegation have made out quite a plausible case, I do not find the claim, as presented by them, sustained by the *language* of the treaty of 1830, nor have I been able to discover any evidence going to show that, at the time the treaty was made, there was a *formal* understanding that the Choctaws were to have any bal-

* Not important in this connexion, and therefore omitted, together with Gen. Cooper's remarks thereon.

ance remaining of the proceeds of the lands, after the payment of the obligation or debts provided for in that instrument.

It is true, as appears from the "talk" of the commissioners on the part of the United States, to the Choctaws, the latter were given to understand it was the mere possession of the lands which the government desired; that it did not expect or desire any pecuniary advantage or profit from their sale, and that the sole objects sought under the proposed treaty were the benefit and welfare of the Choctaws. Yet the commissioners doubtless expected that the obligations and payments which they proposed and provided for in the treaty, would fully equal the value of the lands, and leave no profit to the United States from their sale. The idea that there would, under the treaty, be any pecuniary profit resulting to the government, would certainly be inconsistent with the "talks" of the commissioners, as reported by themselves, and the well known friendship of President Jackson for the Choctaws. At the same time, it is to be presumed, if there had been any distinct agreement that the Choctaws were to receive the proceeds of the lands ceded, it would have been so provided in the treaty itself. I learn that President Jackson regretted that it had not been so stipulated. It is, however, apparent from the 18th article of the treaty, that the lands ceded were to be sold, and the proceeds remain a fund in the hands of the government, pledged for the satisfaction of all claims arising under the treaty of 1830, as well as former treaties, either in favor of the nation or individual Choctaws.

The 18th article of the treaty raises a trust, and makes the United States trustee, for certain purposes, viz: for the adjustment and satisfaction of individual as well as national claims under it.

If this construction be correct, although there was no *express* understanding that the proceeds of the sales of the lands belonged to the Choctaws, yet, upon the universal rule which applies to all trusts, and governs all trustees, or other persons acting in a fiduciary capacity, if, after providing for, and discharging all the obligations or "debts" intended to be secured by the donor or grantor, any balance arising from the sale of property thus conveyed—after paying all necessary expenses incurred in executing the trust—remain in the hands of the trustee, it results to the donor or grantor; and if there is a doubt on this point, the Choctaws are entitled to the benefit of it, according to the treaty, 18th article. Had the Choctaws, generally, availed of the benefits of the 14th and 19th articles, allowing reservations, the whole value of the remaining lands would have been absorbed in satisfaction of the various other obligations or "debts" arising under the treaty. There would have been but little, if any, saleable land left.

The great body of the Choctaw nation, however, quietly yielded, as this tribe has generally done, to the wishes and policy of the government of the United States, and removed west of the Mississippi river; thereby, to some extent, losing the benefits of the treaty. But, assuming that the treaty means, and was intended to mean, nothing more than it expresses—that the commissioners intended thereby to carry out what they gave the Choctaws to understand, and that the lands were only pledged for that purpose—the question arises, what

was the extent and amount of the obligations of all kinds secured, or intended to be secured, under the treaty, and which the United States was bound to pay, or make good? And how have these obligations been carried out?

These constituted the consideration, or price, agreed to be allowed the Choctaws for the cession of their lands; and, in so far as they have not been carried out, injustice has been done, either to the tribe or individuals of the tribe. And to whatever extent there has been a failure, on the part of the government, to secure, pay, or make good, the losses, there is still a subsisting equitable claim upon it in favor of the individual claimants; and, in default of their assertion of the claim, then to the nation, which was charged to the extent of such claims in making the treaty. With a view of arriving at some definite and just conclusion on this point, I have sought information as to the amounts paid and expended by the government, under the various provisions of the treaty of 1830, or former treaties, and the amounts thereof. I am informed it can be ascertained only by an examination of the original accounts and vouchers on file in the Auditor's office, which would require the labor of several months: I have therefore been compelled to abandon the attempt.

I proposed, also, to make a comparative statement of the extent or amount of the obligations, under treaty stipulations, and the net proceeds of the lands, as far as sold, but have not been able to obtain the requisite information from the General Land Office. I have been told there that it would take one clerk a year to furnish a correct statement of the quantity sold, the amount realized therefrom, and the proportion remaining unsold.

I do not perceive how any satisfactory settlement can be made with the Choctaws, based upon the principle of carrying out faithfully the treaty stipulations and obligations, without such information; and, even with it, the result would be uncertain, from the difficulty, if not impossibility, of ascertaining, with any degree of precision, the actual extent of several of the obligations provided for in the treaty, which the United States have not paid or made good—such as the claims of many persons to reservations under the 14th and 19th articles of the treaty, who were deprived of them by the instrumentality or the laches of the United States government, and who have never received any compensation therefor; the claims of those who lost their improvements in consequence of the loss of their reservations; claims of individuals for the value of stock for which they have never been paid, though fully intended and provided for in the treaty of 1830. (See Major Armstrong's report and tabular statement of cultivation claims, under article 19, treaty of 1830, Senate Doc., Indian removal, 512, part 2, 1st session 23d Congress, pages 630, 631.)

That there are many just claims, of these and other descriptions, arising under the treaty, remaining unadjusted, there can be no doubt; and which, for the reasons stated in the communications of the Choctaw delegation, under date 5th April and 1st May, cannot be settled in the manner provided for in the treaty, or in the laws of Congress, (passed for the purposes of adjudicating them,) so as to do

3 secretaries, 4 years - - -	\$600 00	
99 captains, suits of clothes and swords	5,000 00	
Salary for 99 captains, 4 years -	19,800 00	
		<u>\$60,300 00</u>
Art. 16.—Removal and subsistence	1,200,000 00	
20,000 Indians, 20,000 cattle - -	100,000 00	
		<u>1,300,000 00</u>
Art. 17.—20 years' annuity, \$20,000	- - -	\$400,000 00
Art. 18.—Damages arising in consequence of violation of this stipulation by the citizens and government of the United States, viz: 1,250 families, claimants under article 14th, for houses and improvements - -	\$125,000 00	
Do. 800 families, under article 19	80,000 80	
		<u>205,000 00</u>
Art. 19.—Cultivation claims and other reservations, at \$1 25 per acre - - -	- - -	605,000 00
Art. 20.—Education of 40 Choctaw youths, 20 years - - -	\$200,000 00	
Council-houses, &c. - - -	10,000 00	
Teachers - - -	50,880 00	
Millwrights - - -	3,000 00	
Blankets, looms, &c. - - -	200,000 00	
		<u>513,880 00</u>
Arts. 1 and 2.—Supplement: Additional reservations		65,050 00
		<u>5,599,230 00</u>
Expenses incurred by Choctaws in prosecution of claims under the treaty of 1830, and on account of being driven out from their homes - - -	- - -	1,000,000 00
		<u>6,599,230 00</u>

Settlement on the principle of allowing net proceeds of lands.

Total number of acres ceded to the United States under treaty of 1830, at \$1 25 per acre; net proceeds at \$1 per acre - - -	- - -	7,796,000 00
Deduct for script paid - - -	\$1,740,000 00	
Reservations secured - - -	300,000 00	
Money and other articles paid - -	2,178,529 00	
		<u>4,218,529 00</u>
Balance net proceeds - - -	- - -	3,577,471 00
Cr.—By unsaleable lands, at 62½ cents per acre -	-	1,288,735 50
		<u>2,266,735 50</u>
Balance due Choctaws - - -	- - -	2,266,735 50

Or, amount secured by treaty of 1830, for which lands were pledged.

United States Dr. to Choctaws, treaty stipulations	-	\$6,599,230	00
Cr.—By this amount paid	- - - - -	4,218,529	00
		<hr/>	
Balance due Choctaws	- - - - -	2,380,701	00
		<hr/> <hr/>	

WASHINGTON, *May 30, 1854.*

SIR: In accordance with the intention intimated by us, we now take the liberty of submitting, in writing, the substance of the "talk" we had the honor of delivering to you yesterday morning.

In the first place, it becomes us to express our thanks for the kindness and courtesy with which we have, thus far, been treated by you, as well as for the promptness of yourself and the honorable Secretary of the Interior, in putting the business submitted by us in a train of investigation.

Our business has now come to an important point, and we hope that a full and liberal consideration will be given to it. The Choctaws have been waiting patiently for twenty odd years, for a just settlement under the treaty of 1830, and we trust that such a settlement will soon be made. It is time that all matters between them and the United States were finally settled and disposed of. It is of great importance to them that this should be done. They wish to turn their whole attention and efforts to the improvement of their people, by the extension of schools, and other means of enlightenment and civilization. It is of consequence to them to know what resources they will have to rely upon. It is their wish and intention to devote all their means to that great object; they hope, therefore, that the government will now deal liberally with them, so as to contribute to so important a result. They want, however, nothing but justice; but this it is impossible for an Indian tribe to get, unless the government acts in a liberal spirit.

They wish to say a few words in relation to the question of a separation between the Choctaws and Chickasaws. There appears to be an effort to place the former in the wrong. It seems to be forgotten that the existing relations between the two tribes, and between them and the government, are based upon solemn treaty stipulations. The connexion was not sought by the Choctaws, but by the Chickasaws themselves. They were glad to obtain the privilege of coming among the Choctaws, on the terms and conditions they did. They entered into the arrangement freely and voluntarily. The government was a party thereto, and stands as guarantor for its propriety and justice. There is neither right nor reason in asking the Choctaws to dissolve it, on any idle pretext; and it is not to be expected that they can, with any self-respect, consent to a change, under charges of injustice which

have no foundation. If the Choctaws have done the Chickasaws injustice, let them prove it. The Choctaws are ready to meet that question, and to prove that all the charges and insinuations against them, of tyranny and injustice to the Chickasaws, are unfounded and unjust. If there are any real difficulties between the two tribes—if the Chickasaws have any real grievances to complain of, let them be specified, and the Choctaws are willing to submit them to the arbitrament of the government, in the manner provided for by the treaty. It has recently been settled between the two tribes that this course shall be adopted; and the Chickasaws are therefore estopped from further complaint, unless through the proper channel, as provided for in the treaty.

The paramount question with the Choctaws now is, what is the disposition of the government towards them? Will it first do them justice, before pressing the Chickasaw question upon them? Much may depend upon the course of the government in this respect. Justice should first be done towards them before it is assumed that they are guilty of wrong towards the Chickasaws, and appealed to, to do them justice. Let the government first answer, and answer liberally, the appeal of the Choctaws for justice, and they will then be disposed to discuss, in an equally liberal spirit, the Chickasaw question. Until the government shows what it is disposed to do towards them, they must eschew the Chickasaw question. They must obtain justice for themselves first; especially as they acknowledge no injustice towards the Chickasaws. Should the government not deal liberally with them, and the Chickasaws continue to seek their end by misrepresentation, as they have heretofore done, the Choctaws must and will resist them and their purposes, and to the uttermost. Sooner than yield under such circumstances, they will say, both to the government and the Chickasaws—let the latter leave the country, and take back all the money paid us for the privilege of coming there to reside. It is in the hands of the government; let it be given back to them and let them find a more satisfactory home elsewhere. The Choctaws do not seek to oppose the policy of the government, in this or any other matter; they never have done so. They have always submitted quietly and peaceably—more so than any other tribe—more so than their true interests warranted. Had they been less submissive, it would have been better for them—pecuniarily, at least, as it has been for other tribes. If a proper and just course is not pursued by the Chickasaws, they have not money enough to purchase a compliance with their wishes by the Choctaws.

Finally, the Choctaws must adjourn any further discussion of the Chickasaw question, until they can have a full and fair opportunity to settle their own affairs with the government. Two of the delegation now here are commissioners appointed to meet the Chickasaws on the first Monday in July next. They cannot be there; they are under the higher obligation to attend to the interests of their own people first. That meeting will therefore have to be adjourned. It would do no good were it to take place before the Choctaw business with the government is settled. Until that is done, the Choctaws must, as stated, decline to discuss the Chickasaw question.

Thus much the delegation have deemed it proper to say to the hon-

orable commissioner on this subject, in order that there may be no misapprehension as to the position and course of the Choctaws.

With much respect, we are your obedient servants,

P. P. PITCHLYNN,
SAMUEL GARLAND,
DICKSON W. LEWIS,
Choctaw Delegation.

Hon. G. W. MANYPENNY,
Commissioner of Indian Affairs.

C.

DEPARTMENT OF THE INTERIOR,
Washington, June 20, 1854.

SIR: I have received and examined the report of Agent Cooper and the accompanying papers, submitted to the department with your letter of the 31st ultimo.

In regard to the claim of the Choctaw delegation, that the Indians are entitled to the net proceeds of the sales of the lands ceded by the treaty of 1830, "after deducting the amount of the obligations and payments for which the lands were pledged," I am of the opinion that, by the third article of that treaty, there is an *unqualified* cession to the United States of the Choctaw lands. The provision in article XVIII is nothing more than a pledge of the lands for the payment of the several annuities secured by the treaty.

Too great a length of time has elapsed since the congressional and executive action upon the subject matter of the 14th and 19th articles of the treaty, and it is otherwise deemed inexpedient to re-open the whole subject, and again enter into the inquiry of damages.

If the annuities have not been paid according to treaty stipulations, let Congress, or one of the Houses, make a call upon the Indian Office and the Second Auditor for the necessary statements and reports.

With regard to the political, municipal, and internal regulations of the Choctaw nation, as some of the demands made by the Indians appear to me to be strange and inadmissible, I should be pleased to receive and consider such suggestions as your experience may enable you to make.

The papers are herewith returned.

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

R. McCLELLAND,
Secretary.

CHARLES E. MIX, Esq.,
Acting Commissioner of Indian Affairs.

D.

WASHINGTON, July 11, 1854.

SIR: We told you, yesterday, on your reading to us the letter of the honorable Secretary of the Interior, in relation to the matters we have submitted for the consideration of the department, that we were so surprised and mortified thereby, we would not trust ourselves to discuss, verbally, the points presented, but would address you a letter on the subject.

We had confidently hoped that the papers submitted by us would satisfy the department of the justice and propriety of making a final settlement with us, on the principle of allowing us the proceeds of our lands, ceded by the treaty of 1830, which was our understanding of the intention of that instrument, based upon the talks and assurances of the commissioners who negotiated it. With the report of Agent Cooper before him, we certainly expected nothing less than that the honorable Secretary would be satisfied that there was an obligation resting upon the executive department of the government, to cause a careful investigation to be made, for the purpose of ascertaining how far the treaty engagements of the United States towards our people had been fulfilled. In the possible contingency of his not being satisfied of the existing obligations of the government towards us, we took the precaution, soon after Agent Cooper's report and other arguments were laid before him, to address him a communication, stating that, in that case, we desired an opportunity of being heard further in regard to the rights of our people. From the time that has elapsed, and our having heard nothing from him on the subject, we indulged the hope that he was satisfied as to our rights, as asserted by us, and that in time he would give us a favorable decision. His letter to you, without our having had an opportunity of being heard further, of course greatly surprised us. We ask permission to submit a few remarks on the points contained in that letter.

The honorable Secretary says, that, with regard to the political, municipal, and internal regulations of the Choctaw nation, some of the demands made by us appear to be strange and inadmissible. Now, sir, we beg leave to say, that he is altogether mistaken as to our having made any *demands* in that connexion. We have made none. The department had published to the country its views of the importance of new conventions with the various Indian tribes, to supercede existing treaties, in order to simplify their relations with the United States. We notified it of our readiness to comply with its wishes in this particular; and we were called upon to submit our views as to the provisions which should be inserted in a new treaty with us, for the purpose of defining, in a clear and explicit manner, the relations and mutual obligations between the United States and the Choctaws. With due diffidence, and with all deference to the better judgment of our agent and the other authorities of the government, we frankly submitted our views, in a series of propositions, for the consideration of the department. We made no demand, and insisted upon nothing. We simply complied with the invitation extended to us, leaving it to the depart-

ment to approve, reject, or act upon our suggestions, as it thought proper.

The honorable Secretary says that the cession, by the third article of the treaty of 1830, was an unqualified one. In this he is greatly mistaken, as an examination of the treaty will show. The cession was on condition of the fulfillment of the obligations imposed by the treaty on the United States, and so long as one of those obligations remains undischarged, the United States do not possess a full and complete transfer of our title to the lands. It was precisely the same kind of cession as that by the Chickasaws and other tribes, who were allowed the proceeds of the lands ceded by them; and in case of representations, on their part, that the government had failed to do them justice, it would be just as legitimate and proper to interpose the allegation that the cessions by them were unqualified, as it is in the case of the Choctaws.

The 18th article of the treaty of 1830 required our lands to be surveyed and sold, and the proceeds to remain a fund pledged for the discharge of the obligations imposed upon the United States. These proceeds, therefore, constituted a special trust fund in the hands of the government, which could not, consistently with the treaty, be mixed with and merged in its general funds. And we know that it was the view of at least one Secretary of War, while our business was in charge of the War Department, that there should have been kept a special account of that fund, with a view to a final settlement with the Choctaws under the treaty. Adopting the construction given to the treaty by Agent Cooper, the conditions of the cession consist of the various sums of money and advantages secured by the treaty to the Choctaws; and so far as they, or any of them, have not been justly and properly "provided for and arranged" by the United States, there still remains in their hands a fund pledged for that purpose, arising from the sale of our lands.

The honorable Secretary says too great a length of time has elapsed since the congressional and executive action upon the subject-matter of the 14th and 19th articles of the treaty, and it is otherwise deemed inexpedient to re-open the whole subject, and enter into the inquiry of damages. We have claimed nothing in the way of damages; and how can the honorable Secretary say that too great a length of time has elapsed since the congressional and executive action upon the subject-matter of the 14th and 19th articles of the treaty, when, so far, at least, as concerns the 14th article, there was congressional action as late as the two sessions of Congress preceding the present, and the executive action required thereby has not, so far as we are informed, even yet been had.

Permit us, however, to call attention to a part of the subject-matter of the 19th article of the treaty, which seems to have escaped the Secretary's attention. We refer to what is known as the cultivation claims—the right of those who did not take or obtain reservations of land which they cultivated, to a commutation in money therefor. A little examination will show that there has never been any settlement of these claims—that there has been neither congressional nor any

complete executive action for that purpose. Such, also, is the case with regard to other claims and rights under the treaty.

But the action of Congress and the executive, referred to by the honorable Secretary, has no bearing upon or connexion with the rights of our people whatever. It has reference, alone, to claims of persons formerly members of our nation, but who had dissolved their tribal connection and become citizens of the States—principally of Mississippi. Those of our people who were entitled to reservations, of which they were deprived through the palpable neglect of the government agent to register their names, or by the failure of the government to fulfil its pledge of preventing white persons from going into the country and driving off the reserves, had no provision made for them whatever. They were not represented in the applications made to the executive and Congress for reparation for lost rights to reservations. They were excluded—their claims, we have the right to infer, being left for adjustment in the settlement to be made with the Choctaw nation and people under the treaty. The said action of Congress and the executive had reference to the claims of a particular class of individuals, not members of our nation; and the honorable Secretary's argument, therefore, has no proper application to, or bearing upon, the rights of our people, not yet "provided for and arranged."

The honorable Secretary's letter contains the following paragraph, which has not a little surprised us: "If the annuities have not been paid according to treaty stipulations, let Congress, or one of the houses make a call upon the Indian Office and Second Auditor for the necessary statements and reports."

Now, whose duty is it to see that annuities are duly paid, and other treaty stipulations fulfilled—Congress or the executive? The latter, we judge, beyond all question. It is the special duty of the executive to see that the stipulations of treaties are faithfully carried out; and, if authority or money for that object be necessary, it is incumbent on it, and not a poor Indian tribe, to make application to Congress therefor; and such has been the invariable practice under all just administrations of this government. The Indian Department has publicly taken the position, and caused the Indian tribes to be informed, that they must not employ attorneys to attend to their claims against the government—that they must submit them to the department through their agents, and they will be carefully inquired into and justice done them. We would respectfully inquire how far it is consistent with the position and promises of the department in this particular, to refer us to Congress for an investigation of our claims and rights—which seems to be the intention of the honorable Secretary. If such be the intention, we are too poor to send delegations here, year after year, to engage, unaided by those whose duty we think it is to secure justice for us, in the hopeless task of endeavoring to impress upon so large and inaccessible a body as Congress a sense of our injuries and rights. We shall have no other alternative than to throw ourselves upon our "reserved rights," and adopt such a course as will satisfy this great government that its best and wisest policy will be to deal liberally with us, and to do us full and ample justice. It will be a new position for the Choctaws, who have always

quietly and peacefully yielded to the policy and requirements of the government; but it is one they are prepared to assume. In the first place, we shall insist that the efforts, which have for some time been making, to effect a political separation between the Chickasaws and us, shall go no further. We will plant ourselves upon the treaty establishing our present relations, and listen to no further propositions on the subject. The government is a party to that treaty, and must stand as guarantor of its integrity.

If, in consequence of the encouragement given by the authorities of the United States to the Chickasaws, the result should be a civil war, the consequences be on the government. As we have said, in a former communication, let it first do us justice before it again approaches us, to ask us to do what it considers right and just towards another people, to whom we have done, and are doing, no injustice.

In the next place, we can no longer consent to be the almoners of the government for all the small and poor tribes in our neighborhood, or who may wish to come into our country. We shall, therefore, have to demand the immediate removal of the several bands of Texas and other Indians who have settled within our limits; and if this demand be not complied with, we will remove them ourselves, using force, if necessary. The government must look to the consequences, whatever they may be.

Our country extends west to the headwaters of the Canadian, about the 103d degree of west longitude, and we are prepared to maintain our rights to a boundary that far west, by facts and evidence which cannot be disputed. In the compromise with Texas in 1850, that portion of our country, west of the 100th degree of west longitude, was assigned to that State, in direct and palpable violation of our rights. We must demand to be re-possessed of this portion of our country; and, if this is not done, our people will take possession of it, and leave the government to settle with Texas and the Indians upon it, for such damages as they claim.

The time is now at hand when it will be necessary to seek accommodation, among the large southwestern tribes, for many of the Indians of Texas and others, who cannot be provided with suitable homes elsewhere. Even the Kansas and Nebraska Indians cannot remain long where they are. They cannot be removed further west, for there is no country in that direction in which they can be sustained. They will soon be driven out by the white population, as we have all been from the States. There will be no place left for them but among the southern tribes. If the Choctaws refuse accommodation for these Indians, it is not likely it can be had from the other tribes.

We wish it to be distinctly understood, that we do not make these statements in the way of threats, but only to show the government what may be the consequences of a continued refusal on its part to do us justice. We understand our position perfectly; and we foresee, and know, that the government will yet have to rely upon us, to enable it to surmount serious difficulties, connected with the accommodation of other tribes and bands of Indians. We wish it simply to understand, that, while laboring under a sense of injustice and injury, we will not be disposed to make any further concessions.

Finally, sir, the very unwelcome and painful question has arisen in our minds, whether the fact of our being a southern and a slaveholding people has anything to do with the apparent indisposition to act liberally and justly towards us; whether, under a northern administration of Indian affairs, we are to fail in our efforts to obtain justice for our people? We are beginning to feel that there is, somehow, a difference in the present disposition and policy of the government towards the tribes inhabiting different latitudes—that, were we a northern tribe, we would experience less difficulty, and discouragement, than we have done.

We know that a treaty has been made with the Menomonees, relieving them, in part, from the operation of a former treaty, and making provision for a claim asserted by them on account of inadequacy of consideration allowed for the cession of their lands made by that treaty. A treaty has also been made with the Winnebagoes, to remedy injustice done to them by a former treaty, in regard to the country assigned to them; and not only this—an investigation has been made, by the executive department of the government, into the manner in which the pecuniary and other obligations towards these Indians have been fulfilled from the year 1830. This investigation resulted in finding large balances due to them, some of which have heretofore been appropriated and paid, while a final balance, of some forty odd thousand dollars, has been estimated for at the present session of Congress, and is embraced in the Indian Appropriation bill. We see, too, that an appropriation has been asked to defray the expenses of a new treaty with the Michigan Indians, to revise their affairs, and place them in a more favorable situation. As to the Kansas and Nebraska Indians, we understand that the most liberal arrangements have been made with them; and that, in the treaties which have been negotiated with them, provision has been made for claims under former treaties, without regard to "lapse of time." The contrast in our own case, and that of our neighbors, the Creeks, has very painfully impressed us. We trust that we may yet realize that the impression has been without any real foundation.

With respectful consideration, your most obedient servants,

P. P. PITCHLYNN,
SAMUEL GARLAND,
DICKSON W. LEWIS.

Hon. C. E. MEX,

Acting Commissioner of Indian Affairs.

P. S. We respectfully request that this communication, or a copy of it, be laid before the honorable Secretary of the Interior for his consideration.

P. P. PITCHLYNN,
SAMUEL GARLAND,
DICKSON W. LEWIS.

DEPARTMENT OF THE INTERIOR,
Washington, September 25, 1854.

SIR: In consequence of the uninterrupted friendship of the Choctaw nation of Indians towards the government and people of the United States, the interesting advances they have made in civilization, and other considerations equally calculated to incline the government to a liberal and generous policy towards them, I have duly and attentively considered their letter to you of the 11th July last, and, in connexion with it, considered all the questions involved in their present application, but without being able to arrive at any different conclusion.

The Choctaw delegation assert, in general terms, a want of compliance, on the part of the United States, with many of the stipulations contained in the various treaties which have, from time to time, been negotiated with them; and particularly that the government of the United States has not fairly interpreted the nature and purposes of the cession of their lands to the United States, as made by the treaty of 1830, and that the true intent and meaning of that treaty was, to secure to them the proceeds of the sales of those lands, after the several amounts secured to them thereby had been paid.

I am constrained to adhere to the opinion heretofore expressed, that, by the terms of the treaty, the Choctaws made an unqualified and unconditional cession of their lands to the United States, except only in so far as it required that the proceeds of the sales of the lands should remain a fund pledged for the payment of the several amounts therein secured to them. If this be not the true interpretation of the treaty, where was the necessity, and what was the object of the Indians, in retaining, as it were, a *lien* upon the ceded lands? And supposing, for argument's sake, their claim to be tenable, how is it possible at this time, (no precautions having heretofore been taken with that view,) to ascertain the cost to the United States of surveying and selling their lands, &c., and adjusting an account between the United States and the Choctaw nation? I understood, that with the regular force in the Land, Indian, and Second Auditor's offices, the examination which it would be necessary to make, to act intelligently upon the *general* complaint of the Choctaw delegation, of a non-compliance with their treaty stipulations, would require many months, and not then without extra clerical force. Under such circumstances, I did not feel warranted in diverting the force of those officers from their current labors, unless some specific instance should be cited wherein the United States have failed to comply with their engagements; and I repeat, that the nature of the present demands or wishes of the Choctaws is more properly a subject for congressional action; particularly as, in view of the action of the government for a long series of years, and occasionally of Congress itself, the legal presumption is, that the stipulations of the treaty have been complied with as well by the United States as by the Indians.

Should Congress entertain the subject, and call upon the department for information to enable it to ascertain and determine the legal or equitable rights of the Indians, that very call would, under the act of 1842, authorize the employment of the requisite extra clerical force to

comply with it; and in such case it would be the pleasure, as well as the duty, of the department to furnish the fullest information on the subject.

In thus declining to accede to the requests of the Choctaw delegates, I wish them to feel assured of the kind feelings of the department towards their nation, and likewise of its sincere desire to act as liberally with them as the treaties and laws which it is bound to execute will justly warrant.

Their letter of the 11th of July last contains some expressions which, as I doubt not they were used without due reflection, I refrain from noticing.

All the papers in the case are herewith returned.

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

R. McCLELLAND, *Secretary.*

CHARLES E. MIX, Esq.,

Acting Commissioner of Indian Affairs.

E.

WASHINGTON CITY, D. C.,

December 19, 1854.

GENTLEMEN: As requested by you, I have carefully examined the views presented by Mr. Cooper, agent to the Choctaw Indians, in regard to the provisions of the treaty of September, 1830. As that treaty was made by me for, and on behalf of, the United States, you solicit my opinion as to the views presented by Mr. Cooper, and to which, with propriety I can interpose no objection.

I am free to confess that, all the circumstances considered, the views of Mr. Cooper derive great force, at least to the extent of giving to the treaty an equitable consideration. A brief narrative of matters, as they then existed, will afford some light on the subject. Seemingly a conflict of authority was manifesting itself. The States had extended their laws, and the Indians being embittered at the idea, some open hostile conflict was feared. The States's rights portion of the country insisted that the duty of the general government was non-interference with the States in the exercise of legislation within their limits; while a larger portion of the country held, that protection of Indian rights, and of their possession to the soil, were paramount to any authority over them which a State could exercise. The preamble to the treaty assumed this principle—that the executive could not protect them against State legislation, which on ratification, although in nowise material to the treaty, was stricken out by a vote of the Senate. So situated and embarrassed, General Jackson sent General Coffee and myself to conclude a treaty, with no instructions given to us except one—“*fail not to make a treaty.*” If insisted upon, I would have given to the Choctaw people the entire net proceeds of the sale of their country, as I did a short time subsequently to the Chickasaws, in 1832.

Dissensions had existed among the chiefs, approaching to appre-

hended rupture. When the treaty came to be signed, dissatisfaction was manifested. The Indians commenced to drink, and even hostility was threatened to such an extent that the commissioners, about sunset of the same evening, left the encampment.

At the concluding interview in council, when, for the second and last time, we had met, for them to conclude or refuse the treaty, perceiving the decided opposition of the Indians, I addressed them (many knew our language) and said: "The United States neither need nor want your lands for any purpose of profit, for already they have lands enough and to spare; the only object is, to have jurisdiction over your country, and save you from the encroachments of the whites, which cannot be prevented." I said, moreover, that "if a treaty were not made, the President would withdraw the agent, and leave them under the State laws." These declarations had great influence, and thereupon they hastily came forward and signed the treaty. Thus a great gain was effected. The Choctaws were disposed of. Shortly after the Chickasaws, following the example, yielded up their lands. The Cherokees, in 1835, did the same thing; and thus, in five years, the perplexing question of Indian rights was disposed of, and quietude restored, to the benefit of all, or at least the four States, viz: Tennessee, Georgia, Alabama, and Mississippi.

The idea that the United States sought any pecuniary profit from their lands, or desired anything beyond a mere jurisdiction over the country was emphatically disclaimed in the address I made to them. Added to this was a stipulation, that the lands should remain a trust for the fulfilment of the engagements of the treaty. These two circumstances might well have induced the Indians to believe, as they now state, that the net proceeds of the sale of their country was to inure to them.

There certainly is strong equity on their side.

1st. Many of the reservations secured by the treaty were lost, which swelled, to the United States, the quantity of land ceded by the treaty.

2nd. The consideration of purchase was small, for while the Cherokees received five millions, and the Chickasaws the entire net proceeds of sales, the Choctaws received, for a larger and better country, not exceeding half a million of dollars.

If the design be to appeal to Congress, being thereto requested, I will, with pleasure, appear before the committee, for the purpose of any further examination that may be desired.

Very respectfully, &c.

JOHN H. EATON.

Messrs. P. P. PITCHLYNN, *and others,*
Choctaw Delegates.

F.

WASHINGTON CITY, D. C.,
December 21, 1854.

GENTLEMEN: In answer to your letter of the 17th instant, I have to state that, for several years before the treaty of Dancing Rabbit Creek, I have been a licensed trader among the Choctaw Indians. As such, I had extensive dealings with them, and was well acquainted with the leading men, and with the great body of the people. There was a strong, and, I believe, universal feeling in opposition to the sale of any portion of their remaining country in Mississippi. I was present during the negotiation and signing of the treaty; and when the proposition to sell their country was submitted by the commissioners, it met with no favor whatever. The Indians were assembled in large numbers, and the promises made to them were of the most tempting character; but no one seemed to be in the least moved from what was obviously the fixed determination of all, not to sell. The commissioners were fully apprized of the unwillingness of the Indians to give up their country, and therefore acted on the policy of alternately exciting, to the utmost, their hopes and fears. Accordingly, the opening speech of General Eaton, which was mainly addressed to their hopes, was full of flattering assurances and promised blessings. Among other things of like character, he told them that their Great Father, General Jackson, by whose side many of them had fought, cherished a particular regard for his Choctaw children; that, feeling a deep interest in their welfare, he had sent him, the Secretary of War, to make arrangements with them, whereby the evils with which they were threatened might be averted, and their happiness and prosperity as a people secured and promoted; that, to this end, it was necessary for them to cede their country in Mississippi to the United States, and remove to the country which they owned west of Arkansas; that, in asking them to do this, there was no design to take any advantage of them; that the government did not want the lands for the purpose of speculation or gain; that the right of jurisdiction over the country was all the government desired; and that all the pecuniary benefits resulting from the cession would inure to them. These, and similar protestations and promises were reiterated in various forms of expression—all intended to impress the Indians with the belief that they would get the full value of their lands, and that the treaty would be in every respect eminently beneficial to them. The idea that the government desired nothing but the right of jurisdiction, and that all else was to be for the benefit of the Indians, was repeatedly presented, and with special emphasis. At the conclusion of this address the treaty, or the outlines thereof, which had been previously drawn up by the commissioners, was read and interpreted to the Indians; but, although they listened respectfully and attentively to General Eaton's speech, they paid no attention to the reading of the paper, during which there was a general conversational pow-wow going on among them. Their inattention to the reading was doubtless owing to the fact that at that time they had no idea of making a treaty, and consequently felt no interest in what the paper

contained. The council then adjourned until the next day; and, when they re-assembled, the Indians announced to the commissioners that they had considered what had been said to them, and that it was their unanimous and fixed determination not to sell their country. Thereupon General Eaton rose and delivered a very eloquent harangue, the object of which was to alarm the fears of the Indians, and in this he succeeded completely. He portrayed at length, and with startling effect, the evils that would speedily befall them if they did not yield to the wishes of the government. He told them that they would be subjected to the operation of the State laws, by which they would be compelled to muster, pay taxes, and work on roads; that their country would be overrun by the white men, who would come among them like flocks of blackbirds and swarms of locusts; and that they and their children would become paupers and beggars; that they would be broken up and utterly destroyed as a nation; that the United States could not protect them where they were; that no more commissioners would be sent to treat with them; that this was the last opportunity they would ever have of escaping from the ruin with which they were threatened; that it was impossible for them to remain in Mississippi, and yet continue to hold their country west; that it would be taken from them and given to other tribes who wanted it; that they would soon have no country and no home; that their agent, also, should be forthwith dismissed, and they abandoned to their fate; and hereafter, said he, when your troubles come upon you, and your distress is great, you will then be heard appealing to the President for succor and relief; but he will turn a deaf ear to your lamentations, and laugh at your calamities.

In conclusion, he placed the treaty on a table before him, and urged them to come forward at once and sign it. The speech produced a general panic among them, and in the midst of great confusion and excitement, the treaty was immediately signed, without being again read or understood by the Indians. The supplement was afterwards signed under the same state of feeling. The popular excitement ran so high, that the chiefs and headmen who signed the treaty became alarmed, and hastily left the ground; and the commissioners, also apprehensive of serious consequences, did the same. The Indians had requested that several copies of the treaty should be left with them; and this the commissioners promised to have done, but their departure was so sudden that there was no time for the copies to be made. After the lapse of several weeks, a few copies were sent to some of the chiefs; and then, for the first time, the Indians were apprized of the contents of their treaty, at which they expressed the utmost astonishment and indignation, and immediately set about getting up public meetings for the purpose of protesting against its ratification by the Senate; but the United States agent actively interposed, and by intimidation prevented the meetings from being held. There can be no doubt, that but for his interference, the nation, with one voice, would have protested against the ratification of the treaty.

Such is a brief statement of the leading facts and circumstances connected with the making of the treaty of Dancing Rabbit Creek; and in view thereof, I have no hesitation in saying that, although the

Indians doubtless understood that it contained all the beneficial provisions that had been held forth to them by the commissioners, it was nevertheless signed by them under the controlling influence of fear, coercion, and duress. I will add, though not requested by your letter, that the manner in which the treaty has been enforced by the government is equally arbitrary and oppressive towards the Indians. It is notorious that some of its most important provisions have never been fulfilled, nor can they be at this late day, in consequence of the past delinquency of the government. Of all our Indian tribes, the Choctaws deserve to be dealt with liberally and magnanimously. They have always been the true and steadfast friends of our people, in peace and war; and it would take millions to compensate them for the losses, injuries, and sufferings they have endured in consequence of submitting to the policy and measures of the government. You say in your letter that you seek information from reliable and disinterested sources. For myself, I have no connexion with your business in any way whatever, and have made the statements contained in this communication with entire disinterestedness and impartiality.

With sincere regard, your friend and obedient servant,

R. H. GRANT.

Messrs. P. P. PITCHLYNN and others,
Choctaw Delegates.

DEPARTMENT OF THE INTERIOR,
March 28, 1855.

SIR: In relation to the appeal which it is stated the Choctaw delegation have taken to the President, I have to inform you that it is the President's determination not to interfere with the action had by the department on the subject.

I am, sir, very respectfully,

Your obedient servant,

R. McCLELLAND, *Secretary.*

Hon. GEO. W. MANYPENNY,
Commissioner of Indian Affairs.

WASHINGTON CITY, *April 9, 1855.*

GENTLEMEN: I am, to-day, in receipt of a letter from the Hon. Geo. W. Manypenny, Commissioner of Indian Affairs, instructing me "to confer with the Choctaw delegation, now in this city, for the purpose of ascertaining what arrangements, if any, can be made with them, having in view the adjustment of all differences between their tribe and the Chickasaw tribe of Indians, the government of the United States, and the permanent settlement of the Wichita and other bands of Indians in the Choctaw country.

I respectfully request that you will furnish me, as early as practicable, with an answer, in writing, to the above interrogatories, in order that the same may be reported to the Commissioner of Indian Affairs.

Your friend,

DOUGLAS H. COOPER,
United States Agent for Choctaws.

To P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,
Choctaw Delegation, Washington City.

WASHINGTON CITY, *April 10, 1855.*

SIR: We have the honor to acknowledge the receipt of your letter of yesterday, informing us of your having been instructed, by the honorable Commissioner of Indian Affairs, "to confer with the Choctaw delegation, now in this city, for the purpose of ascertaining what arrangements, if any, can be made with them, having in view the adjustment of all differences between their tribe and the Chickasaw tribe of Indians, the government of the United States, and the permanent settlement of the Wichita and other bands of Indians in the Choctaw country;" and requesting an answer from us in writing to the above interrogatories.

With regard to the first, we respectfully state, that the connexion and relations between the Choctaws and Chickasaws are fixed and defined by the convention of 1837, to which the government is a party. That convention amply provides for the settlement of such differences between the two tribes as they cannot settle themselves. The Choctaws claim to have faithfully and consistently complied with, and fulfilled, all the obligations and duties imposed upon them by that instrument. They abide by its provisions, and are now, and ever have been, willing cheerfully to submit to the mode of adjustment provided for in it; but since the settlement, recently, of the important questions of boundary, and the obligation of the Chickasaws to defray their just share of the expenses of our common government, we are not aware of anything now existing which can be considered a matter of difference between us, consistently with the provisions of said convention. If the department is differently informed, or thinks otherwise, and will do us the honor to state in what such matters of difference consist, and the arrangement which it desires or thinks should be made for the adjustment thereof, we will examine into the same, and promptly communicate our views in relation thereto.

With respect to the differences between the government and the Choctaws, we have already submitted at length our views of what right, justice, and a liberal and magnanimous policy require. These not having been acceded to by the department, we think it is for it to state what arrangement it is willing or disposed to make in reference

thereto. Our opinions and convictions, in regard to the just and equitable rights of the Choctaws, having undergone no change, we are not in a situation to suggest any arrangement inconsistent therewith. If the government has any to propose upon the subject, we shall hold ourselves bound to give to it all due and proper consideration. Our only desire is to settle our differences with it on fair, just, and equitable terms.

Respecting the Wichita and other bands of Indians, who have intruded themselves within our country, we have to remark, they are, as you know, a nuisance, and we had far rather be rid of them altogether. In our communication to the acting Commissioner of Indian Affairs, of the 11th of July last, we demanded their removal, as we had a right to do, but we are not aware that any order has been given on the subject. We have had it in contemplation to renew this demand, and, if not complied with, to remove them ourselves, by force if necessary. We and our people have, however, as we ever have had, every disposition to comply with the policy and wishes of the government; and if it be an object of importance to it to have these Indians accommodated with a home within the boundaries of our country, though such an arrangement would be greatly repugnant to our inclinations and feelings, we would consent to it on fair and reasonable terms, if it can be made a part of a just and equitable adjustment of all the matters involved in the existing controversy between the Choctaws and the government; otherwise we could not take the serious responsibility of encountering the prejudices and opposition of our people to the measure.

With respectful consideration, we have the honor to be, sir, your most obedient servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,
Choctaw Delegation.

Gen. D. H. COOPER,
Agent for the Choctaws.

WASHINGTON CITY, *April 16, 1855.*

SIR: I have the honor to enclose herewith memoranda of conversations had with the Indian delegations now in this city, representing the Choctaw and Chickasaw tribes, respectively, in conformity with your verbal instructions to me of April 13th inst.

Very respectfully,

DOUGLAS H. COOPER,
U. S. Indian Agent for Choctaw tribe.

Hon. GEO. W. MANYPENNY,
*Commissioner of Indian Affairs,
Washington city, D. C.*

Memoranda of conversations had between D. H. Cooper, United States Indian Agent for Choctaw tribe, and the delegations now in Washington city, representing the Choctaw and Chickasaw tribes, respectively, April 14th, 1855.

In obedience to the verbal instructions of the Hon. Geo. W. Manypenny, Commissioner of Indian affairs, I have had a free conference with the delegations representing the Choctaw and Chickasaw tribes of Indians, for the purpose of ascertaining from them upon what terms they are willing to settle all matters of difference now existing: 1st, between the United States and the Choctaws, growing out of their claims against the government; 2d, all matters of difference between the Choctaws and the Chickasaws; 3d, the terms upon which they will be satisfied to arrange with the government of the United States for the permanent settlement of the Wichita and other bands of Indians within the limits of the Choctaw country.

The Choctaw delegation replied in substance as follows, viz: That they consider the great object of their mission here is to effect a settlement of their own affairs, which they are willing to do, as they have already stated, on fair, just, and equitable terms. If, as they have said, the government considers there are differences between them and their brethren the Chickasaws that require adjustment, and it will state what they are, and its wishes upon the subject, the delegation will take them into consideration in any negotiations set on foot for the settlement of their own affairs, with every disposition to conform to the just wishes of the government and their Chickasaw brethren upon the subject.

In regard to the settlement of the Wichita and other Indians in the Choctaw country, the delegation have already stated what they are willing to do in relation thereto.

If the government is disposed to place these matters in a satisfactory train of negotiation, the Choctaw delegation is willing to enter upon such negotiation, and will do so with a hearty desire to settle all three of the points presented above in a proper and just manner.

We attest the correctness of the above.

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND,
DICKSON W. LEWIS,
Choctaw Delegation.

The above points, as submitted to the Choctaw delegation, having been presented to the Chickasaw delegation, they replied substantially as follows, viz:

That, in reference to the first point, they have no concern as a tribe, further than sympathy for their brethren the Choctaws, and the hope that a just and fair settlement may be had between the United States and the Choctaws, so as to open the door for a like just and fair arrangement of all matters of difference between the Choctaws and themselves. That, in regard to the second point, they have but one

proposition to make to the Choctaws, viz: That an arrangement be entered into, whereby the jurisdiction of the Chickasaw tribe over their district may be acknowledged, and their independence as a nation secured; but that they hold themselves in readiness to consider any proposition which the Choctaws may make, or any suggestion which the United States government, as the guardian and protector of the tribes, may see fit to submit for the consideration of the Choctaws and the Chickasaws. That, although they are instructed definitely, by their people, only as to the proposition set forth above, for separate jurisdiction over the Chickasaw district, and distinct nationality, yet, if such terms should be proposed, by way of compromise, between themselves and the Choctaws, as in their judgment will place their people upon a safe basis, and secure their future interests, they will not insist obstinately upon their own proposition as an *ultimatum*. That they anxiously desire an amicable and satisfactory arrangement with their friends and brethren the Choctaws, and earnestly invoke the paternal interposition of the government of the United States, for the purpose of bringing about a friendly, just, and liberal solution of the difficulties now so unhappily existing between the two tribes.

In regard to the third point they have only to say that, in conjunction with the Choctaws, they are willing to enter into an arrangement with the United States government for the permanent settlement of the Wichita and other bands of Indians in the Choctaw country, upon terms, fair, just and safe, for both the Choctaws and Chickasaws.

We attest the correctness of the foregoing memoranda.

EDMUND ^{his} PICKENS,

SAMPSON ^{mark} FOLSOM,

Chickasaw Delegation.

I certify the foregoing memoranda to be substantially a correct report of conversations had between the respective delegations now in Washington city, representing the Choctaw and Chickasaw tribes of Indians, and myself.

DOUGLAS H. COOPER,

United States Indian Agent for Choctaw tribe.

DEPARTMENT OF THE INTERIOR,

Office Indian Affairs, April 18, 1855.

SIR: I have the honor to state that, with a view to enable me to comply with the request endorsed, on the 8th, on the letter of agent Cooper, of the 6th instant, on the occasion of your reference of the same with its enclosure back to this office, and to which my attention was again called by the note of Mr. Whiting, of the 11th instant, to express an opinion as to what could and should be done in the matter of difference between the Choctaw and Chickasaw Indians, I directed Agent Cooper to have a full conversation with the delegates of those tribes, for the purpose of ascertaining from them upon what terms the Choc-

taws would be willing to settle all matters of difference now claimed to exist between them and the United States, and between them and the Chickasaws; and also upon what terms these tribes would arrange with the government for the permanent settlement of the Witchitas and other Indians within the limits of the Choctaw country.

The accompanying note of Agent Cooper, enclosing a memoranda of a conversation between himself and the delegates, is respectfully submitted as the result of the conference.

I do not perceive from this memoranda that there is a probability of making any arrangement with the Choctaws, in relation to matters of difference between them and the Chickasaws, upon such terms as would likely be satisfactory to the latter, or for an arrangement for the occupancy of a portion of the Choctaw country by the Witchitas and others, if any could be made, unless coupled with such adjustment of the affairs of the Choctaws with the government as would admit the claims and demands heretofore preferred by them, to an extent which, from the decision pronounced by you, upon a full examination of them, it is not likely could or should be acceded to.

On the 16th instant the Chickasaw delegates presented a communication to this office, proposing a plan by which they believe it to be practicable to effect, peaceably and satisfactorily, a separation of these tribes.

In this communication the delegates state that the Choctaws, "it is understood, would be willing to refund this amount, (\$530,000, the sum paid by the Chickasaws to the Choctaws under the convention of 1837,) with interest, upon condition that the Chickasaws remove from their present country, and settle themselves beyond the limits of the Choctaw nation. To this the Chickasaws will consent, provided the United States will permit them to buy from the Cherokees the district of country known as the neutral ground."

I transmit this last named communication herewith also, and have to express my regret that there should exist any causes, real or imaginary, in the relations of these two tribes, from which discontent should arise, and their peace be disturbed or endangered.

I think it very probable that the Cherokees would dispose of the "neutral land" to the Chickasaws, provided the assent of the United States could be obtained to the arrangement.

If the plan proposed by the Chickasaws was one that could be carried out, the assent of the government should not, in my opinion, be withheld; but there are difficulties in the way of the suggested plan, not, perhaps, considered by either party.

Very respectfully, your obedient servant,

GEO. W. MANYPENNY,
Commissioner.

Hon. R. McCLELLAND,
Secretary of the Interior.

WASHINGTON CITY, *April 21, 1855.*

SIR: I have the honor to enclose a reply from the Choctaw delegation, in answer to an inquiry made yesterday, under the direction of the honorable Secretary of the Interior, and request the same may be transmitted to him.

Respectfully,

DOUGLAS H. COOPER,
Indian Agent for Choctaws.

Hon. GEO. W. MANYPENNY,
Commissioner of Indian Affairs, Washington City, D. C.

WASHINGTON, *April 20, 1855.*

SIR: We have had under consideration your verbal communication to us to-day, that it is the wish and expectation of the honorable Secretary of the Interior, that we shall make a proposition or statement of the terms upon which we will be willing to settle and close up the national and individual claims of the Choctaws, to which we have called the attention of the government.

After rejecting all our claims and demands, and the failure of our appeal to the President for his interposition in our favor, the department voluntarily re-opened the subject, and caused us to be inquired of by you, as to the terms upon which we would agree to a settlement of all the questions of difference between the Choctaws and the United States, &c. In our letter to you of the 10th instant, we frankly stated our position; that we had fully made known our views as to the extent of our rights; that we remained satisfied of the justice of our demands, and that we could not make any proposition inconsistent therewith; that our only desire was to settle our differences with the government on "fair, just, and equitable terms;" and if it would make us a proposition upon the subject, we would give to it all due and proper consideration.

In the verbal conference which you subsequently held with us, we again expressed our disposition to settle all the matters in dispute, "on fair, just, and equitable terms;" and we said that, if the government was disposed to place these matters in a satisfactory train of negotiation, we were willing to enter into such a negotiation, and would do so with a hearty desire to settle the questions at issue in a proper and just manner.

We do not see what more we could reasonably be expected to say, under the circumstances. We had made known our claims and demands, and thought we could not, consistently, make any proposition at variance with them. We invited the government either to make a proposition to us, or to place the questions involved in a train of negotiation. It seems that it declines to do either, and still insists on some different proposition from us. We are unwilling thus to place ourselves in an inconsistent position; to depreciate and undervalue our rights, by making any proposition at variance with them. If the govern-

ment cannot or will not recognise them to the extent we have set them forth, and is yet disposed to do something—to agree to some just and fair basis of compromise—it seems to us only reasonable that it should now say to us what it is willing to do, or to place the business in some train of negotiation that will lead to a just and satisfactory result.

So anxious are we to adjust and close up all questions in dispute between the Choctaws and the government, that we will be willing to take the responsibility of agreeing to any basis of settlement that will do our nation and people substantial justice.

Very respectfully, your obedient servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS.

Gen. D. H. COOPER,
United States Agent for Choctaws.

DEPARTMENT OF THE INTERIOR,
Washington, April 21, 1855.

SIR: I have read the papers submitted with your letter of the 18th instant, and the communication of yesterday from the Choctaw delegation, transmitted to you by agent Cooper, and referred to me by you to-day, in relation to a proposed convention between themselves, the Chickasaw delegation, now here, and the United States, for the settlement of the various matters of difficulty alleged to exist; and am unable to perceive how, in the present aspect of the subject, any just and reasonable basis of negotiation can be prescribed by the government. As a condition precedent to the settlement of the issues between the Choctaws and the Chickasaws, the former require a settlement of their demands against the United States. Their demands, or claims, as far as they have been represented to the department, are inadmissible, and the delegation have been so informed.

If you have any plan for the settlement of these difficulties, or if the Choctaws will submit a distinct offer as the terms on which they will settle with the Chickasaws, and provide for the Wichitas and other Indians within the limits of the Choctaw country, the department will give it prompt consideration, and with every disposition to award to them and the Chickasaws such degree of favor as may not be incompatible with the rights and interests of the United States.

Having conversed with yourself and agent Cooper in regard to the matter, the views of the department will be fully understood, without going further into the subject in this communication, which is hurriedly prepared in view of the importance of the early return of agent Cooper to his post.

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

R. McCLELLAND,
Secretary.

COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, April 23, 1855.

SIR: I herewith enclose, for the information of the Choctaw and Chickasaw delegations, now in this city, a letter from the honorable Secretary of the Interior, in reference to the object of their mission, and in regard to the settlement of the Wichitas and other Indians within the Choctaw country.

You will proceed to ascertain upon what terms the Choctaws and Chickasaws can and will arrange their differences. Whatever arrangement they may be willing to make between themselves, not inconsistent with the laws of the United States, will receive the sanction of the government, it being desirable they should settle their difficulties forthwith, upon amicable and fair terms.

You will also ascertain upon what terms the Choctaws will arrange with the United States for the use of their country west of 98° west longitude, for the Wichitas and such other bands of Indians as the government may desire to settle permanently west of that degree of longitude. Also upon what terms the right to settle said Indians west of 99° west longitude can be obtained, and report to this office with the least delay possible.

Very respectfully, your obedient servant,
GEO. W. MANYPENNY,
Commissioner.

D. H. COOPER, Esq.,
United States Agent for Choctaws, present.

WASHINGTON CITY, April 26, 1855.

SIR: I herewith enclose a proposition from the Choctaw delegation, in regard to the settlement of their demands against the United States, arising under the treaty of Dancing Rabbit creek, concluded A. D. 1830; and also a proposition for the lease of the Choctaw possessions, west of the 99th degree of west longitude, to the government, for the permanent settlement of the Wichita and other bands of Indians within the Choctaw country.

The Chickasaws have been notified that the Choctaw delegation are willing to receive and consider any proposition they may see fit to make, in reference to the re-adjustment of the boundaries of the Chickasaw district, and the political relations of the two tribes, established under the conventions between them of January, 1837, and November 1854. And I learn the Chickasaw delegation will submit a proposition to the Choctaw delegation upon that subject, as soon as it can be prepared.

Respectfully,
DOUGLAS H. COOPER,
United States Agent for Choctaws.

Hon. GEO. W. MANYPENNY,
Commissioner of Indian Affairs.

WASHINGTON, *April 24, 1855.*

SIR: We have given careful attention to the letter of the honorable Commissioner of Indian Affairs, of the 23d instant, and a copy of that of the honorable Secretary of the Interior, enclosed therein, which you submitted to us yesterday.

The honorable Secretary says, "as a condition precedent to the settlement of the issues between the Choctaws and the Chickasaws, the former require a settlement of their demands against the United States." We beg leave to say, that the Choctaws have no issues with the Chickasaws. In our letter to you, of the 10th instant, we correctly stated the position of the Choctaws, with reference to any differences or "issues" with their brethren the Chickasaws. We said, that since the settlement of certain questions between them, we were "not aware of anything now existing which can be considered a matter of difference between us, (the two tribes,) consistently with the provisions of said convention"—that of 1837, establishing the present relations between the Choctaws and Chickasaws. What is referred to as issues between the two tribes are issues made, or attempted to be made, by the Chickasaws, which are entirely inconsistent with that convention, and with the understanding of all parties when it was entered into, and which have therefore been refused recognition by the Choctaws.

But we said further, in our letter referred to, that, "if the department is differently informed, or thinks otherwise, and will do us the honor to state in what such matters of difference consist, and the arrangement which it desires, or thinks should be made, for the adjustment thereof, we will examine into the same, and promptly communicate our views in relation thereto." In our subsequent verbal conference with you, as afterwards reduced to writing and communicated to the department, we repeated, that "if the government consider there are differences between them (the Choctaws) and their brethren, the Chickasaws, that require adjustment, and it will state what they are, and its wishes upon the subject, the delegation will take them into consideration in any negotiation set on foot for the settlement of their own affairs, with every disposition to conform to the just wishes of the government and their Chickasaw brethren on the subject."

But with reference more particularly to the statement of the honorable Secretary, that we make the settlement of our demands against the government a condition precedent to the settlement of the issues, or alleged issues, between the Choctaws and Chickasaws, what are the facts? In the instructions of the Commissioner of Indian Affairs to you, quoted in your letter to us of the 9th instant, the question of our claims or differences with the government was re-opened, and you were required to ascertain what arrangement could be made with us for their settlement, together with the differences raised by the Chickasaws, and for the accommodation of the Wichita and other bands of Indians in our country. For reasons stated, we thought we were not in a position to make a proposition in reference to our claims of differences with the government, and that one should come from it. It having denied the validity of our demands as presented, but after-

wards opened the question as to some arrangement for their settlement, we thought it was for it to say what it was willing to do.

We asked it to do so, or to place all three of the matters mentioned, which it had coupled together, in a train of negotiation. In our verbal conference with you before referred to, we said "the Choctaw delegation is willing to enter into such negotiation, and will do so, with a hearty desire to settle all three of the points in a proper and just manner."

In our letter to you of the 20th instant, in answer to an inquiry upon the subject, made at the instance of the honorable Secretary of the Interior, we wound up by saying: "So anxious are we to adjust and close up *all* questions in dispute between us and the government, that we will be willing to take the responsibility of agreeing to any basis of settlement that will do our nation and people substantial justice." Now, we think, that from all this, it ought to have been manifest that we do not make the settlement of our original demands against the United States, as "represented to the department," a condition precedent, as stated by the honorable Secretary. The department couples the question of their settlement with two other questions. We have clearly intimated a disposition—a desire—to settle all three "in a proper and just manner"—an anxiety to adjust and close up all questions of dispute or controversy, upon any basis of settlement that will do substantial justice to our nation and people. The department will not, however, give us the slightest intimation of what it is willing to do in regard to our matters, or of what are its wishes and views in regard to the other two questions of controversy. Under these circumstances, it has been the subject of anxious deliberation with the delegation, since your communication to them of the letters of the Secretary of the Interior and Commissioner of Indian Affairs, what course they shall pursue.

After much reflection, they have concluded to make the following propositions :

They will enter into a convention, or supplemental treaty, providing :

1. For a reference of their claims under the Dancing Rabbit Creek treaty to the Senate of the United States, the co-ordinate branch of the treaty making power; leaving it to that body to determine and decide whether the Choctaws are in justice and equity entitled to the net proceeds of the lands ceded by the above treaty, as claimed by them, or whether they shall be allowed a round sum in further satisfaction of national and individual claims under that treaty; and if so, how much. We here take occasion to state, as we have done in other communications to the department, that, under the 19th article of the treaty, there are due, upon one class of individual claims alone, some \$300,000, as shown by a report made years ago by a former Superintendent of Indian Affairs, but with reference to which there has been no adjustment or action of the government whatever. We refer to what are known as the "cultivation claims," for which a specific money compensation is provided for in that article. This is but one class of individual claims in which justice has never been done by the government, and there are many others, equally just, in the same situation.

With respect to the proposition to submit the question of the extent of our claims and rights under the treaty of 1830, to the Senate of the

United States, we would simply remark, that it is in conformity with precedent. We will cite but two cases, as to treaties with Indians, which are known to us, though probably others could be found. After the conclusion of the treaty of 1835-'36, with the Cherokees, questions arose as to whether the consideration money stipulated in that treaty covered certain objects embraced therein. President Jackson consented that these questions should be submitted to the Senate for its decision, and a supplement to the treaty was entered into to that effect. In 1846, during President Polk's administration, a further treaty was made with the same Indians, one of the principal objects of which was to adjust and settle the claims of the Cherokees arising under the previous treaty, about which controversy and difficulty had arisen between them and the government, as in our case. The two negotiating parties could not come to an understanding upon three of the questions respecting claims, and it was agreed they should be submitted to the Senate for its decision. See 11th and 12th articles of the treaty. We understand that questions connected with treaties with foreign governments are also not unfrequently submitted to that body, and the relationship of the Executive and Senate is the same with respect to all treaties, whether with foreign nations or Indian tribes. We might also cite the case of the Menomonees, a northern tribe, in which the present administration went even further than was done in the two cases to which we have referred. While the question of the just rights and claims of the Menomonees, under the treaty of 1848, was pending in the Senate, to which they had petitioned on the subject, and before any decision was had thereon the department voluntarily, as stated by the Commissioner of Indian Affairs in his last annual report, caused a supplemental treaty to be made with them, in order to do them justice, by which a large sum of money was secured to them, which was still further increased by the Senate. Why cannot a similar act of justice be done to the Choctaws by the executive department of the government, or it at least be agreed that their claims and equitable rights shall be submitted to the Senate.

2. We will agree to provide in the same convention or supplemental treaty, that the government shall have the permanent use of a limited portion of the western part of our country, for the accommodation of the Wichita and other bands of Indians, for a fair and just consideration; the amount to depend, of course, upon the extent of country required for the purpose. The Commissioner of Indian Affairs, in his letter, requires you to ascertain our terms for the use of that portion of our country west of the 98th degree of west longitude, and also for that west of the 99th degree.

We are unwilling to lease, for the purpose mentioned, any portion of our country east of the 99th degree; but for the lease of that west of that degree we will consent, in behalf of our people, to take the sum of four hundred thousand dollars. In regard to the Chickasaw question, all that we can at present say is, that our Chickasaw brethren have heretofore insisted upon our conceding to them a separate and independent government, and a complete and unincumbered title to that portion of the Choctaw country embraced in the Chickasaw district. To this we could, under no circumstances, agree. We cannot

consent to the sale, or alienation beyond our own ultimate control, of one foot of our country. It would be death to us, or to any Choctaw who should propose or assent to it. Nor could we agree to a separate and independent government over so large a portion of our country as that embraced in the "Chickasaw district" of the Choctaw nation. If our Chickasaw brethren have any modified proposition to submit, we will, as we have said before, take it into consideration, with every disposition to comply with the just wishes of themselves and the government upon the subject. We will at any time confer with yourself and the Chickasaw delegation in reference thereto, if it be so desired.

Very respectfully, your obedient servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,

Choctaw Delegation.

Gen. D. H. COOPER,
Choctaw Agent, Washington City.

DEPARTMENT OF THE INTERIOR,
Washington, April 27, 1855.

SIR: Herewith I return you the letter of Agent Cooper, of the 26th instant, enclosing certain propositions addressed to him by the Choctaw delegation, now in this city, on the 24th instant, looking to a convention or negotiation between themselves and the United States; which papers you referred to me on yesterday for my consideration.

I see no objection to the first proposition, to submit to the Senate of the United States the question as to the extent of the claims recently made by them, under the treaty concluded at Dancing Rabbit Creek, in 1830.

As I have heretofore said, I have every disposition to act towards these Indians in a spirit of the utmost liberality, consistent with the just rights and interests of the United States; and, all things considered, am disposed to think the proposition for the permanent accommodation of the Wichita and other Indians, and the amount demanded therefor, worthy your consideration; and you are authorized to enter into negotiations with the Choctaws on that basis. I think, however, that, notwithstanding their claim to an extent of country west of the 100th meridian of longitude is regarded, by the department, as without any foundation in law or equity, it might prevent further trouble in regard to it to insert an article in the supplemental treaty or convention now to be held, requiring the Choctaws to relinquish and abandon all right or claim to the same.

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

R. McCLELLAND,
Secretary.

COMMISSIONER OF INDIAN AFFAIRS.

Endorsement of Commissioner of Indian Affairs on above.

Referred to Agent Cooper, who will proceed at once to adopt the necessary preliminary measures to carry out the views of the Secretary of the Interior, as expressed within, and submit the result to this office.

GEO. W. MANYPENNY,
Commissioner.

OFFICE INDIAN AFFAIRS, *April 30, 1855.*

WASHINGTON CITY, *May 2, 1855.*

GENTLEMEN: In view of the probability that an arrangement will be effected between the Choctaw and Chickasaw tribes, restricting the western boundary of the "Chickasaw district" to the 98° of west longitude, west from Greenwich, I desire to ascertain whether you will agree, the Chickasaws assenting, to lease the country included between 98° and 100° west longitude, and between Red and Canadian rivers, to the United States, for the permanent settlement of the Wichita and other bands of Indians within the territorial limits of the Choctaw nation; and, if so, upon what terms, it being understood that the Choctaws shall relinquish and quit claim, in favor of the United States, whatever interest they may have in the country lying west of the 100° of west longitude.

Respectfully, &c.,

D. H. COOPER,
Choctaw Agent.

MESSRS. P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,

Delegates from the Choctaw nation.

WASHINGTON CITY, *May 3, 1855.*

SIR: We had the honor to receive, to-day, your letter of yesterday, stating your desire to ascertain whether we will agree, in behalf of our people, to lease that portion of our country between the 98th and 100th degrees of west longitude to the United States, for the permanent settlement of the Wichita and other bands of Indians therein; "and, if so, upon what terms, it being understood that the Choctaws shall relinquish and quit claim, in favor of the United States, whatever interest they may have in the country lying west of the 100° of west longitude?"

In our communication to you of the 9th ultimo, we referred to the

prejudices and opposition of our people to the location of the Indians referred to within the limits of our country, and our repugnance to such an arrangement; but we stated that we had every disposition to comply with the policy and wishes of the government on the subject; and that, if the measure were one of importance to it, we would take the responsibility, and consent to it, on fair and reasonable terms. In our subsequent communication, of the 24th instant, we stated our unwillingness to lease, for that purpose, any portion of our country east of the 99° of west longitude, but, that we would agree to lease that west of that degree, for the sum of four hundred thousand dollars. On further consideration of the subject, however, since the receipt of your letter, we have concluded, in the same spirit of accommodation, to agree to comply with the wishes of the government, by leasing to it the further portion of our country between the 98° and 100° of west longitude.

The question of the total relinquishment of any portion of our territorial rights is one of even greater delicacy and difficulty. We have fully acquainted you with the grounds of our claim to title to the head waters of the Canadian river, extending as far west as, at least, to the 103° of west longitude. We believe our title to be perfectly valid and good; but, as it is questioned, if not disputed, by the government, west of the 100° of west longitude, and we are anxious to put at rest all questions of controversy with it, we will relinquish and quit claim to it our rights west of that degree of longitude, on fair and equitable terms. The extent of country involved is large; we know it to be valuable; and we believe the acquisition of our title to it to be important to the government; still we have no disposition to be exorbitant. As a consideration for the whole arrangement, we would consent to take eight hundred thousand dollars—one-half thereof for the lease of the country between the 98° and 100° of west longitude, and the other half for the relinquishment of our right west of the latter degree.

The above proposition has reference to the arrangement as a whole. Were it to be confined only to the lease of the portion of the country between the two degrees of longitude mentioned, we should, for obvious reasons, feel constrained to ask not less than six hundred thousand dollars therefor.

With respectful regard, we have the honor to be your most obedient servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,
Choctaw Delegates.

Gen. D. H. COOPER,
Choctaw Agent, now in Washington.

To the CHOCTAW DELEGATION:

If the Choctaws will propose to lease to the United States the territory west of 98° and east of 100° west longitude, (the Chickasaws

assenting,) and couple with it a relinquishment of all claim west of 100° west longitude, the government will agree to pay them \$600,000. I am authorized to draw up a treaty on that basis, (and also submitting their other claims to the Senate for decision,) for the commissioner's examination; and, if approved, nothing will remain but for the commissioner and the delegation to execute it.

D. H. COOPER,
Choctaw Agent.

WASHINGTON, *May 4, 1855.*

WASHINGTON, *May 12, 1855.*

SIR: We have been informed by General Cooper that the honorable Secretary of the Interior is of opinion that our authority, as delegates of the Choctaw nation, is confined to the subject of the claims of the Choctaws against the United States, and that, consequently, we are not authorized to treat with the Chickasaw delegation with reference to the difficulties between the two tribes. It follows, of course, that we have no authority to negotiate upon the subject of the proposed arrangement for the settlement of the Wichita and other Indians within the limits of the Choctaw nation. You are well aware that we consented to treat on the two subjects last mentioned, because we understood it was the desire of the government that we should do so; and because we were led to believe that we could not otherwise effect a treaty with the government, providing for a settlement of the claims of the Choctaws against the United States. Assuming this to be the case, we could not doubt our authority to negotiate on all three of the subjects, as we are expressly empowered "to take all measures, and to enter into any and all contracts which, in their [our] judgments, are, or may become necessary and proper, in the name of the Choctaw people, to bring to a final and satisfactory adjustment and settlement all claims or demands, whatsoever, which the Choctaw tribe, or any member thereof, has against the United States, by treaty or otherwise." Inasmuch, however, as the honorable Secretary has decided that there is no objection to our proposition to submit the question of the claims of the Choctaws against the government to the Senate of the United States, and as there is no necessary connexion between that and the other subjects referred to, we respectfully request that a treaty be concluded at once, providing for a settlement according to the terms of our accepted proposition.* We ask this, because of the

* Notwithstanding the acceptance of our proposition, this request was peremptorily refused, and the department would not consent to make any separate arrangement for the settlement of our business. We had to await the decision of the Attorney General respecting the powers of the two delegations; and that officer having decided that they had not the requisite authority to conclude a final arrangement for the adjustment of the Chickasaw question, we had no alternative but to enter into new negotiations for a provisional treaty, to be submitted to the councils of both tribes, providing for the settlement of our business, of the Chickasaw question, and for a lease to the government of a portion of our country for the accommodation of the Wichita and other Indians.

great delay that has already attended this business, and because of our extreme anxiety to return to our homes.

With respectful consideration, we are your obedient servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND,
DICKSON W. LEWIS,
Choctaw delegation.

Hon. GEO. W. MANNYPENNY,
Commissioner of Indian Affairs.

Memorandum of the conference between the Choctaw and Chickasaw delegates, respecting the amendments suggested by the Commissioner of Indian Affairs, to the draft of a treaty between the United States and the Choctaw and Chickasaw tribes, as agreed on by said delegates, made and submitted to the Commissioner by Agent Cooper.

1. Change of arrangement of articles not objected to.

2. The proposed amendment to the preamble, and article 7, provides for an entirely different arrangement from that which the delegations have had under consideration. The question was as to what arrangement could be made for "the permanent settlement of the Wichita and other bands of Indians in the Choctaw country." (See Agent Cooper's letter to Choctaw delegation of April 9th, embodying instructions of Commissioner of Indian Affairs to him.) The answer of the delegation, next day, shows how they understood the proposition, viz: that it was for an arrangement to enable the government to secure a permanent home, within the limits of the Choctaw country, for the Wichita and other alien bands of Indians, now there without any right of residence, and whose removal the Choctaw delegation had demanded, as the Chickasaws had previously done. The government did not object to that understanding of the proposition; and, as the proposition has not been varied or enlarged, there was no ground to suppose that a different arrangement was desired. The neighboring tribes—Creeks, Seminoles, Cherokees, &c.—are all provided with homes; arrangements of a permanent character have been made, in recent treaties, for the Kansas and Nebraska Indians; and reservations have been set apart in Texas for the colonization of the Indians of that State. The delegations could not, therefore, suppose, that the government desired to provide for any others than those in their country without homes, and who would have to be removed therefrom, unless a right of residence there was secured for them. The delegations were averse to these Indians remaining in their country, but, to accommodate the government, they yielded their objections. A proposition to introduce other Indians into their country is liable to much stronger, if not insuperable, objections.

3. Proposed amendment to article 1, not objectionable in point of substance; but it would be more acceptable if it began thus: A district for the Chickasaws is hereby established, bounded as follows.

4. Last proviso to this article not necessary, and its being struck out agreed to.

5. Proposed amendment of 2d article not objected to.

6. Insertion of word "such," in article 4, objected to, as it would imply that members of either tribe, not becoming citizens of the other, would have the right to participate in their funds; whereas, the intention was to exclude all.

7. Insertion of words "are entitled to or," in article 9, agreed to.

8. The amendment to article 10, it is hoped, will not be insisted on, as it is considered essentially unjust and altogether inadmissible. The Choctaws sincerely maintain that the United States are largely indebted to individuals of the tribe. Being honestly of this opinion, they cannot, without gross injustice and a criminal abuse of power, release the government from its liability, except upon such terms and conditions as will secure the rights of individuals, and provide for the payment of their claims. The government ought to forbid, rather than require, such an act of tyranny and wrong. The Choctaws are bound, by every consideration of good faith and public duty, to protect the rights and interests of the individuals belonging to the tribe. How, then, is it possible for them to enter into an agreement by which those rights and interests will certainly be imperilled, and, it may be, entirely destroyed? For, let it be borne in mind, that if the stipulation were as proposed, and the Senate should allow only a nominal sum, the United States would be forever discharged from what the Choctaws consider a heavy liability; that liability would devolve on them; they could not, without inconsistency and dishonor, repudiate it; and yet they would be without the ability to meet it. Now, if the government acknowledged the validity of the claims of Choctaws to the extent that the Choctaws know them to be just, they might with safety consent to such a stipulation. But when it is remembered that the department has hitherto refused to recognise and provide for said claims, and that the Senate would doubtless be governed in judging of them by the information derived from the department, it would be an act of improvidence and folly, on the part of the Choctaws, to release the government, and take upon themselves a burden from which the amount awarded by the Senate might afford no adequate relief. The original provision is certainly more consistent with precedent; and if the Indians are willing to leave it to the American Senate to say how much shall be allowed them, and on what conditions, why should the American government object? The Senate, it is respectfully suggested, can safely be trusted to dispose of the whole subject, without the imposition of restrictions guarding them against excessive liberality to the Indians.

9. No objection to substitution of word "excepting" for "excluding," in article 13; nor to insertion of words "such" and "as are or may be," after "viz.," in same article.

10. No objection to proposed amendment to article 13, but it is suggested that the proper place for it is article 7, preceding the proviso therein, as follows: "Which Indians shall be subject to the exclusive control of the United States, under such rules and regulations, not inconsistent with the rights and interests of the Choctaws and

Chickasaws, as may, from time to time, be prescribed by the President for their government.”

11. No objection to proposed amendment of article 14.

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,
Choctaw Delegation.

WASHINGTON, *June 4, 1855.*

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, June 7, 1855.

SIR: In the protracted discussions which I have had, from time to time, with the delegates of the Choctaw and Chickasaw Indians, in relation to the adjustment of all matters of difference between the two tribes, as well as in relation to the settlement of the claims of the Choctaws against the United States, which I had supposed were definitely determined a few days since, and the basis of a convention agreed upon, I find, on reducing the same to writing, two points of difference, which seem likely to retard further, if not jeopardize, the whole arrangement, and I respectfully submit them for your consideration, and such action and instructions as may be deemed proper and necessary.

The Witchitas and other bands of strolling Indians have been for some time, and are now, residing within the limits of the Choctaw country, between the 98th and 100th degrees of west longitude, and both the Choctaws and Chickasaws have requested that they should be removed therefrom by the United States.

The Choctaws have preferred a claim to the country between the 100° and 103° of west longitude, which, however, has not been favorably regarded by the department.

But, with a view of settling all questions of difference, it was, among other things, proposed by the department to take from the Choctaws a quit claim to all their right to land west of the 100°, in connexion with a lease of a portion of their country east of that degree for the permanent settlement of the Witchitas, and other Indians within the country thus proposed to be leased. Agent Cooper was instructed, on the 23d of April last, to ascertain upon what terms the Choctaws would arrange with the United States for the use of their country west of 98° west longitude, for the permanent settlement of the Witchita and such other bands of Indians as the government may desire to settle permanently west of that degree, and also upon what terms the right to settle said Indians west of the 99° of west longitude can be obtained.

On the 24th April the Choctaw delegates replied that they were unwilling to lease, for the purpose mentioned, any portion of their country east of the 99°, but for the lease of that west of said degree

they would consent, on behalf of their people, to take the sum of \$400,000.

This communication of the Choctaws was referred to the Secretary of the Interior on the 26th of April.

On the 27th, the Secretary instructed me to consider the proposition for the permanent settlement of the Witchitas and other Indians in the Choctaw country, and to enter into negotiations with the Choctaws on that basis.

Having understood, that in the arrangements between the Choctaws and Chickasaws, the western boundary of the Chickasaws district would likely be fixed at 98° west longitude, Agent Cooper was instructed to inquire again whether the Choctaws would not lease the country west of that degree to the United States for the permanent settlement of the Witchita and other bands of Indians; and, if so, upon what terms; it being understood that the Choctaws shall also relinquish and quit claim, in favor of the United States, whatever interest they may have in the country west of the 100° of west longitude.

On the 3d of May the delegation replied that they would take the sum of \$800,000; one-half thereof for the lease of the country between 98° and 100°, and the other half for the relinquishment of their right or claim to the country beyond the latter degree. And they observe that "the above proposition has reference to the arrangement as a whole. Were it to be confined only to the lease of the portion of country between the two degrees of longitude mentioned, we should, for obvious reasons, feel constrained to ask not less than \$600,000 therefor."

After consultation with the Secretary of the Interior, and with his concurrence, Agent Cooper was instructed, verbally, to inform the delegation that if they would accept the sum of \$600,000 for the lease of the country between the two degrees, and the relinquishment west of the 100°, the government would give that sum.

The delegation assented to this proposition, and agreed to take the sum of \$600,000 for the lease of the territory within the two degrees mentioned, and the relinquishment of their claims to the country west of the 100th degree. The Chickasaw delegation also assented and agreed to the terms of the lease, and the question was settled, as I supposed; but both delegations now contend that the United States shall be restricted in the number of bands of Indians to be located in the country leased, to such as are now residing in it. With such a limitation on the use of the country, the lease would be of but little value, and I have therefore declined to assent to the limitation which the Indians desire to impose, and have claimed that the government must be left free to locate such Indians as it may desire to do within the ceded country; such being the express suggestion of my letter to Agent Cooper, of the 23d April, in which I say: "You will also ascertain upon what terms the Choctaws will arrange with the United States for the use of their country, west of 98° west longitude, for the permanent settlement of the Witchita and such other bands of Indians as the government may desire to settle permanently west of that degree," &c. Although this was the inquiry to be made, the delegations

state that they did not understand, at any time, that the government desired to arrange for the permanent settlement of any other than such bands as now reside within the Choctaw country.

The delegations propose, as a compromise, that the Choctaws quit claim to the country west of 100°, and that they and the Chickasaws will lease the country between 99° and 100°, for the permanent settlement of any Indians whom the government may desire to locate therein, for the sum of \$600,000.

The Choctaws, in their correspondence, proposed to leave certain questions to the Senate of the United States, to which the Secretary of the Interior wrote me on the 27th April last, thus :

“I see no objection to the first proposition to submit to the Senate of the United States the question as to the extent of the claims recently made by them, under the treaty concluded at Dancing Rabbit Creek, in 1830.”

It is proposed to submit to the Senate, 1st, 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 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, 2d, whether the Choctaws shall be allowed a gross sum in further and full satisfaction of their claims, national or individual, against the United States ; and, if so, how much ?

And then it is provided that if the Senate award to the Choctaws the net proceeds of the lands ceded, the same shall be received by them in full satisfaction of all their claims against the United States, whether national or individual, arising under any former treaty ; and the Choctaws shall thereupon become liable, and bound to pay, for all such individual claims as may be adjudged, by the proper authorities of the tribe, to be equitable and just ; the settlement and payment to be made with the advice, and under the direction of the United States agent for the tribe ; and so much of the fund awarded by the Senate to the Choctaws as the proper authorities shall ascertain and determine to be necessary for the payment of the just liabilities of the tribe, shall, on their requisition, be paid over to them by the United States. But should the Senate allow a gross sum, instead of the net proceeds of the lands, the Choctaw delegation desire the following language to be used : “But, should the Senate allow a gross sum, instead of the net proceeds of the lands, the Choctaws shall not be bound to pay the claims of individuals against the United States, unless the sum so allowed shall be accepted and received by them in full satisfaction of all their claims, whether national or individual against the United States.” The language proposed by the Commissioner of Indian affairs is as follows : “But should the Senate allow a gross sum, in further and full satisfaction of all their claims, whether national or individual, against the United States, the same shall be accepted by the Choctaws, and they shall thereupon become liable for, and bound to pay, all the individual claims as aforesaid, it being expressly understood that the adjudication

and decision of the Senate shall be final." Colonel Cooper, the agent, has suggested the following language as a compromise: "But, should the Senate allow a gross sum, instead of the net proceeds of the lands, the sum so allowed shall be accepted and received by the Choctaws, in full satisfaction of all their claims, whether national or individual, against the United States."

Having occupied considerable time in fruitless discussion with the delegates, upon the points here submitted, and being unwilling to restrict the United States in the use of the country to be leased, and believing that the country west of 99° would not meet the wants of the government, (the Witches, Waccos, and other bands having their present residences and villages east of 99°,) I have thought it proper, in view of what I believe to be the desire of the delegates, to submit the question, as well as the question involved in the submission, to the Senate, for your information, and, if you concur, for the consideration of the President, to the end that I may be definitely instructed on the subject. It is very desirable for the United States to obtain the possession of a portion of the Choctaw country, for the purpose of settling bands of Indians therein permanently, and we should, if possible, obtain the country to the 98° of west longitude; but if the country west of 98½ degrees could be leased, it would be, perhaps, sufficiently extensive for all purposes; and while perhaps it would be proper to assure the Choctaws in express terms, in the treaty, that none of the Indians who now have permanent homes, or whose permanent ranges and hunting grounds are north of the Canadian, shall be located in the country leased of them, yet, beyond that, there should be no restriction.

Very respectfully, your obedient servant.

GEO. W. MANYPENNY.

GEO. C. WHITING, Esq.,

Acting Secretary of the Interior.

Endorsement of the Acting Secretary of the Interior on the above.

Having submitted this subject to the President, I am directed by him to say to the Commissioner of Indian Affairs, that it is his desire that he shall follow the dictates of his best judgment in the premises.

GEO. C. WHITING,

Acting Secretary.

DEPARTMENT OF THE INTERIOR, June 9, 1855.

WASHINGTON CITY, June 11, 1855.

SIR: General Cooper, Choctaw agent, has communicated to us, as coming from you, the following propositions, viz: That if we will agree to lease to the "United States that portion of our country between the 98° and 100° of west longitude, for the permanent settlement of the Wichita and such other tribes or bands of Indians as the government may desire to locate therein: *Provided, however,* That no tribe or band

now embraced within the limits of New Mexico, or whose permanent settlements are east of the Arkansas or north of the Canadian, or whose permanent ranges are north of the Arkansas, shall ever be located therein: *And provided, also*, That the country so leased shall be open to settlement by Choctaws or Chickasaws, as heretofore," you will agree, on behalf of the United States, to allow, in consideration thereof, the sum of eight hundred thousand dollars, provided the Choctaw delegation will consent to the amendment proposed by you at the close of the 10th article of the proposed treaty between us and the United States, which amendment would bind the Choctaws, unconditionally, to assume the liability and payment of the claims of individual Choctaws against the government, under the treaty of 1830, whatever gross sum might be allowed by the Senate, in lieu of the net proceeds of the lands ceded by the Choctaws by said treaty.

The proposition communicated by General Cooper is materially different, with respect to the Indians the government shall have the right to locate within the country desired to be leased of us, from a former one made by you, which is now before us, in your own handwriting, and which reads as follows, viz: "For the permanent settlement of the Witchitas and such other bands or tribes of Indians as the United States may desire to locate therein, provided, however, that none of the Indian bands or tribes, whose present ranges or permanent residences are north of the Canadian, or any of the Indians of New Mexico, or the Cherokees, Creeks, or Seminoles, shall be located within the country hereby leased." This proposition would exclude all the wild Indians whose present ranges are north of the Canadian, while the other excludes only those whose permanent ranges are north of the Arkansas, embracing a large additional number, and comprising, according to our understanding, all the tribes and bands of the plains. To this we could not consent, under any circumstances or for any price; nor would our council consent to it. It is also our firm belief, that the senators from Texas and Arkansas would strenuously object to a provision in the treaty for the location of so large a horde of wild and lawless Indians on and near the borders of their respective States.

Nor can the Choctaw delegation consent to your required modification of the 10th article of the project of a treaty which has been drawn up. They have stated their reasons in writing why they cannot, and they still adhere to them. They never proposed to assume the liability and payment of the individual Choctaw claims against the government, unless the net proceeds of the lands ceded by the treaty of 1830 were awarded to them. Those claims are, by that treaty, a lien upon the fund arising from the proceeds of the lands; and if the government retains that fund, it should retain also the liability of those claims. In order to finally settle and close them up, the Choctaws would gladly assume them, in case a sufficient amount is allowed to enable them to do so fairly and justly; and there is no danger of their not accepting whatever gross sum the Senate might allow, if sufficient for that purpose—should that body decide to allow a gross sum, instead of the net proceeds of the lands.

We hold, that to require them to assume this liability, unconditionally—the government to be thereby entirely relieved, and the Choc-

taws running all the risk of getting an insufficient sum—would be neither fair nor just. Our people would not sanction our placing them in a position of so much uncertainty and peril. They would certainly reject the treaty, with such a provision in it as you seem disposed to insist upon. With the required concession of separate and independent jurisdiction to the Chickasaws, and that to the government, of the right to locate various wild tribes within the Choctaw country, it will be a difficult matter to secure the ratification of the treaty by the Choctaw council, without other obnoxious provisions being forced into it.

The Choctaw delegation are, however, willing to run the risk of leaving to the Senate, whether their people shall assume the liability of the individual claims, in case of the allowance of a gross sum. They are not unwilling to trust that body, as you have said they were. They will agree to divest the Choctaws of the right to decide the question for themselves, and leave it entirely to the Senate. In lieu of what they have heretofore insisted on, and of the amendment thereto required by you, they will agree to the following provision, viz: "In case the Senate shall allow a gross sum, instead of the net proceeds of the lands, the same shall be accepted and received by the Choctaws, in full satisfaction of all their national claims against the government; but they shall not be bound to assume and pay the claims of individual Choctaws against the United States; unless the Senate, in making said allowance, shall so direct—it being expressly understood that the adjudication and decision of the Senate shall be final."

This proposition is offered in a spirit of compromise and concession. It entirely obviates your objection to the other provision we desired—that it was not a full and complete submission of the whole question to the Senate; and the delegation therefore indulge the confident hope that it will be accepted by you in the same spirit in which it is offered.

In regard to the Indians to be located within the district of country proposed to be leased, we have stated in writing what was our understanding and our reasons therefor. We supposed that all the government desired was the right to secure permanent homes, within our limits, for the Wichita and other bands of Indians, who are now intruders in our country, and whose removal we had demanded. It seems the government intended differently. We agreed to accept six hundred thousand dollars for the lease, for the accommodation of the Indians above mentioned, coupled with a relinquishment of our claims to territory west of the 100° of west longitude. We are averse to the admission of other Indians on any terms, and six hundred thousand dollars would not be a sufficient compensation for the lease and relinquishment, if other wild tribes and bands of Indians are to be received into our country. As we have stated before, however, we are disposed to accommodate the government, and will do so as far as we can, without making too great a sacrifice of our rights, interests, and safety. We will agree to take the eight hundred thousand dollars, now offered, for the lease and relinquishment, and to the location, within the country leased, of the Indians included in your original proposition which we have quoted—Choctaws and Chickasaws to have

the right to settle in the leased country as now—if you will consent to the modified proposition in regard to our claim herein submitted.

With respectful consideration, your most obedient servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND,
DICKSON W. LEWIS,
Choctaw Delegates.

Hon. G. W. MANYPENNY,
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, June 12, 1855.

GENTLEMEN: I have received and carefully considered your communication of yesterday, and am constrained to say to you, that I am not able to concur with you in the form of submission, to the Senate, of certain questions proposed by you; nor can I consent to the limitation you wish to incorporate into the article proposing to lease to the United States that portion of the Choctaw country west of 98° west longitude.

I did state to General Cooper, that for the quit claim, lease, and submission, in the language proposed by me, I would venture to offer the sum of \$800,000, if there was any reason to suppose it would be accepted; and, so far as he has indicated my willingness to propose that sum, it must be considered in connexion with the condition stated by me.

The proposition to submit certain questions to the Senate was one voluntarily made by yourselves, and I am unable to perceive the propriety of any qualification being inserted in the article, which shall leave it optional with that body to make a partial award, or with either of the parties to accept it with conditions; or, for any matter connected with either the national or individual claims of the Choctaws, to be left in a situation, by the terms of the submission or the award made in pursuance thereof, to be thereafter revived and again brought before the government. My view is, that if the questions involved in the national and individual claims preferred by you be submitted to the Senate, the decision of that body should be final and binding on the parties, and that no doubtful language should be used in the article of reference.

Such being my opinion, I have to say that I shall not feel at liberty to adopt any language in the article submitting certain questions to the Senate that is liable to doubt or uncertainty.

With a sincere desire to see all matters adjusted between the Choctaws and Chickasaws, and to so dispose of the claims made by the former against the government as to place them fairly before the Senate for its final adjudication and decision, I am nevertheless constrained to reject the mode of submission proposed by you, as well as to express the opinion that the terms of the lease should leave the government un-

embarrassed in relation to the Indians to be permanently located, subject only to the proviso suggested by me.

With these remarks, I deem it proper to state to you frankly, that, in my opinion, it will be a fruitless waste of time to discuss these questions further, if the Choctaw delegation insist on the terms proposed in your letter of yesterday.

Very respectfully, your obedient servant,

GEO. W. MANYPENNY,
Commissioner.

Messrs. P. P. PITCHLYNN,

ISRAEL FOLSOM,

SAM'L GARLAND,

DICKSON W. LEWIS,

Choctaw Delegates, now in Washington.

WASHINGTON CITY, *June 14, 1855.*

SIR: We have the honor to acknowledge the receipt of your letter of the 12th instant, in which you state that it will be a fruitless waste of time to discuss further the two remaining questions of difference between us and the department, if we are determined to adhere to the propositions contained in our letter of the 11th instant. As stated by us, we made those propositions in a spirit of concession and compromise. We believed them to be reasonable, and we are constrained to say, with all due respect, that your letter has entirely failed to satisfy us that they are not. You, of course, have the power to terminate the discussion, if such be your pleasure; but we cannot consent to its being closed without an effort on our part, however feeble, to vindicate the fairness and moderation of our course, during the protracted negotiations which have taken place, and the reasonableness and propriety of our last propositions.

We were delegated by our people, and came here some eighteen months ago, to endeavor to effect a just and equitable settlement with the government of all outstanding matters arising under the treaty of 1830. Our agent being here at the time, he was commissioned by the department to investigate and report upon our business. He executed the trust with fidelity and ability, and his report strongly sustained our rights and claims, though he differed from us as to the particular grounds upon which we based them. The department repudiated them altogether and, referred us to Congress. For reasons given, we protested against the reference, as unjust and ungenerous, and appealed to the President. The honorable Secretary of the Interior decided that the President refused to interfere; and Congress having, in the mean time, terminated its late session, there seemed to be no further occasion for our remaining here. On the 9th of April, however, our agent addressed us a communication, stating that he had that day received a letter from the Commissioner of Indian Affairs, instructing him "to confer with the Choctaw delegation, now in this city, for the purpose of ascertaining what arrangements, if any, can be made with

them, having in view the adjustment of all differences between their tribe and the Chickasaw tribe of Indians, the government of the United States, and the permanent settlement of the Wichita and other bands of Indians in the Choctaw country." We answered the next day, stating :

First. That we were not aware of anything which could be considered a matter of difference between the Choctaws and Chickasaws, consistently with the provisions of the convention of 1837, which fixed and defined their existing relations, and which provided the mode of adjusting such differences between them as they could not settle themselves. We added, however, that "if the department is differently informed, or thinks otherwise, and will do us the honor to state in what such matters of difference consist, and the arrangement which it desires or thinks should be made for the adjustment thereof, we will examine into the same, and promptly communicate our views in relation thereto."

Second. That, with respect to our differences with the government, we had "already submitted, at length, our views of what right, justice, and a liberal and magnanimous policy require. These not having been acceded to by the department, we think it is for it to state what arrangement it is willing or disposed to make in reference thereto. Our opinions and convictions, in regard to the just and equitable rights of the Choctaws, having undergone no change, we are not in a situation to suggest any arrangement inconsistent therewith. If the government has any to propose upon the subject, we shall hold ourselves bound to give to it all due and proper consideration. Our only desire is to settle our differences with it on fair, just, and equitable terms."

Third. That, "respecting the Wichita and other bands of Indians, who have intruded themselves within our country, we have to remark, that they are, as you (our agent) know, a nuisance, and we had far rather be rid of them altogether. In our communication to the Acting Commissioner of Indian Affairs, of the 11th July last, we demanded their removal, as we had a right to do, but we are not aware that any order has been given on the subject. We have had it in contemplation to renew this demand, and, if not complied with, to remove them ourselves—by force if necessary. We and our people have, however, as we ever have had, every disposition to comply with the policy and wishes of the government; and, if it be an object of importance to it to have these Indians accommodated with a home within the boundaries of our country, though such an arrangement would be greatly repugnant to our inclinations and feelings, we would consent to it on fair and reasonable terms, if it can be made a part of a just and equitable adjustment of all the matters involved in the existing controversy between the Choctaws and the government. Otherwise we could not take the serious responsibility of encountering the prejudices and opposition of our people to the measure."

We thus freely and frankly stated our position and disposition. The government was materially interested in regard to two of the questions submitted to us. It had fully committed itself on the side of the Chickasaws, in favor of an essential alteration of the convention of 1837,

which the Choctaws were for maintaining in all its integrity. It could not withdraw from this position with honor, and it could not carry out its pledges to the Chickasaws without the consent of the Choctaws. So long as they stood firm, that convention must stand. Their national pride, and, to some extent, their reputation, dictated and required that they should maintain their ground. The government was also embarrassed in regard to the situation of the Wichita and various other bands of Indians, who were intruders in our country. We regarded them as a nuisance, and demanded their removal. It was under obligations to comply with our demand, and to find them a suitable home. It could not well secure such a home elsewhere; and hence the importance of obtaining our consent to their remaining. It was not only in favor of, but deeply concerned in, the accomplishment of these two objects. We were opposed to them. It was, therefore, but fit and appropriate that it should make us propositions in relation to them. It was, in our opinion, unjust and ungenerous to demand them of us; and, under the circumstances, equally so to require one from us in regard to the settlement of our differences with the government; as the department would not, of course, consider one that did not vary from our reiterated views and deep-rooted convictions of our rights.

We used our best efforts, but without effect, to convince the department that this was the true position of the two parties—that it was for it, and not us, to make propositions. It continued to demand them, and we were finally compelled to yield, or abandon the hope which had been excited, by the re-opening of the question of our claims, of effecting some arrangement for their settlement. Yet, sir, you say, in your letter, that our propositions in regard to our claims were made voluntarily!

We proposed the submission of our claims to the Senate of the United States for adjudication and decision, and cited precedents in favor of the propriety of that course. Our proposition was deemed reasonable and accepted. We agreed to lease to the government, for the permanent settlement of the Wichita and other bands of Indians in our country, that portion thereof between the 98° and 100° of west longitude, and also to quit claim our right to territory west of the last mentioned degree of longitude, for the sum of eight hundred thousand dollars. The department refused that sum, but offered six hundred thousand, which we agreed with much reluctance to accept. We likewise signified our willingness, on fair and reasonable terms, to concede to our Chickasaw brethren separate jurisdiction and government, within a large district of our country; and, to that extent, to abrogate the convention of 1837, to which we had been and were so much opposed. These arrangements were to be embodied in two separate conventions—one between us and the government, and the other between us and the Chickasaw delegation. The department was in possession of the credentials of both delegations, and no question was raised as to the power and authority of either. After much difficulty and embarrassment, the two delegations came to terms, and the contract between them was drawn up and ready to be signed. The proposed convention between us and the government was also in a state of forwardness; but, at this

point, questions were, for the first time, raised by the department as to the authority of both delegations to treat. Their credentials were referred to the Attorney General, and he decided that they had not the requisite authority to consummate the proposed arrangements. There being no doubt, however, of our power and authority to enter into a convention for the settlement of the claims of our people against the government, we requested, as a matter of justice, to be permitted to do so, as our propositions had been accepted; leaving the other questions to be arranged afterwards. You refused us that boon, and gave us distinctly to understand that all three questions must be settled together or none. The new project was then started of a provisional convention, to be united in by both delegations, and to be referred to the councils of their respective tribes for confirmation, prior to its submission to the Senate of the United States. New points of difference arose between the two delegations, which were with difficulty compromised. The draft of the joint convention was then carefully prepared by General Cooper, upon whom the duty had been imposed, approved by the two delegations, and then submitted to you. You required a number of modifications to be made in it, all of which were assented to by both delegations, except two—one respecting the terms of the lease of the western portion of our country, the other relating to the manner of submitting the claims of the Choctaws to the Senate. In a memorandum of conference between the two delegations, dated the 4th instant, and submitted to you, we stated the reasons why we could not agree to these two required modifications. Learning from you that you still insisted upon them, we respectfully requested an answer to that paper in writing, but received none, though we understood you to promise to comply with our request. But with reference, more particularly, to these two remaining points of difference and difficulty.

The question in relation to the lease of a portion of our country was first proposed in your letter of instructions to Agent Cooper, which he embodied in his communication to us of the 9th of April, and which we have already quoted. You therein required him to confer with us, for the purpose of ascertaining what arrangement could be made, having in view, among other things, "the permanent settlement of the Wichita and other bands of Indians in the Choctaw country." We clearly understood by this, that you meant the Wichita and other alien and intruding bands in our country, whose removal we had demanded. Our reply of the next day, which is on file in your office, and which we have quoted in full on this point, shows, beyond all doubt, that such, and such only, was our understanding of the question. If we were in error, and the department had in view the settlement of other Indians in our country, we ought to have been so informed. The department accepted, or, by its silence on the subject, acquiesced in, our understanding.

The record of the conference held with us by General Cooper, a few days afterwards, by your direction, shows that we were still under the same impression as to the views and wishes of the government on this point. We then said, that "in regard to the settlement of the Wit-

chita and other Indians in the Choctaw country, the delegation have already stated what they are willing to do in relation thereto."

The next reference to the question was in a letter of the Secretary of the Interior to you, dated the 21st April, in which it was stated, that "if the Choctaws will submit a distinct offer as to the terms on which they will settle with the Chickasaws, and provide for the Witchitas and other Indians within the limits of the Choctaw country, the department will give it prompt consideration." This conveyed to our minds the same impression we had previously entertained, as to the Indians the department desired to have the right to settle in our country. In your letter of the 23d of the same month, to General Cooper, you enclosed a copy of the Secretary's letter, "for the information of the Choctaw and Chickasaw delegations, in reference to the subject of their mission, and in regard to the settlement of the Witchitas and other Indians within the Choctaw country." It is true, that in this communication you required our agent to "ascertain upon what terms the Choctaws will arrange with the United States, for the use of their country west of the 98° of west longitude, for the Witchitas and such other bands of Indians as the government may desire to settle permanently west of that degree of longitude." This was the first use of language at all calculated to suggest the idea to us, that the government might desire to locate other alien Indians in our country than those already there. But, from the fact of a different understanding being so firmly fixed in our minds, and the language of the Secretary's letter, which was the foundation and authority for yours, harmonizing therewith; and knowing of no alien Indians, but those already in our country, which the government could desire to settle there; our impression, as to the meaning and intention of the department upon the subject, remained unchanged; as is sufficiently manifest in our letter of the 24th of April, to General Cooper, in reply to those of the Secretary and yourself. In that letter we signified our disinclination to surrender the use of any part of our country east of the 99° of west longitude; but agreed to lease to the government, for the use of the Indians we had in view, that portion of it between that and the 100° of west longitude. In view of the probability of the western line of the separate district of country for the Chickasaws being fixed at the 98° west longitude, General Cooper, by your direction, in a communication dated May 2d, requested us to state on what terms we would lease from that to the 100°, "for the permanent settlement of the Witchita and other bands of Indians within the territorial limits of the Choctaw nation." Here, again, the same language was used; and our reply of the next day shows that we were still under the same impression as to the views and intentions of the government.

Prior to the two delegations being brought together in the joint negotiations with the government, the draft of the separate convention with us, made by General Cooper, was submitted to you. The same language was used in it, viz: "For the permanent settlement of the Witchita and other tribes or bands of Indians within the Choctaw country." You did not object to it, or signify any desire to have it modified so as to be made more comprehensive. It was not until you did so, on the draft of the joint convention being submitted to you,

that we came to understand that it was designed to locate other alien Indians in our country than those already there; and all such others as the department might choose, without any restriction. You required the language of the convention to be so changed as to give the government that right, but to this we would not consent. It was not what we had agreed to, and we had well founded and serious objections to it.

The lease we had consented to agree to was a limited one, viz: for the permanent settlement, within the country leased, of the Wichita and several alien tribes and bands now in our country—the government to have the control of them, but we still to retain jurisdiction over the country itself, with the right of settlement therein by Choctaws and Chickasaws, as heretofore, as expressed and provided for in the convention. If the government had the unrestricted right to bring in any and all Indians it pleased, the whole district might soon be filled up with a discordant, restless, and predatory population, which would endanger the frontier settlements of the Choctaws and Chickasaws; deprive us, practically, of our jurisdiction, and necessarily exclude Choctaws and Chickasaws from settling within the district, if they so desired. Such an arrangement would be a virtual sale of that portion of our country, to which we could, under no circumstances, submit. Moreover, the consideration offered would be entirely inadequate. We had agreed to relinquish our claims to territory west of the 100° of west longitude, embracing at least six and a half millions of acres. The district desired to be leased contains quite seven millions more; so that, practically, the government would have acquired from us some thirteen and a half millions of acres of land, for the certainly insufficient sum of six hundred thousand dollars. You then consented to modify the amendment you had required. You first proposed a sectional or geographical line, and to exclude the Indians north of it. If we agreed to an enlarged proposition, with a restriction, we did not desire the restriction made in that way. We preferred to have the Indians which the government should have the right to bring in designated by name. You next proposed to exclude all the Indians whose permanent homes or permanent ranges were north of the Arkansas and Canadian rivers, which form our northern boundary; and also all those belonging to New Mexico—giving to the government the right to locate in our country any or all of the Indians east of that territory, and south of those rivers—numbering, in all probability, not less than thirty thousand. Before any conclusion was come to in regard to this proposition, you again changed your ground, and sent us another, making the Arkansas, instead of the Canadian river, the line of exclusion, in respect to the Indians not having permanent homes, so as to include a host of other wild, lawless and robber bands, whose permanent ranges extend south of the Arkansas. You said that if we would consent to this, and to the modification you exacted in the terms of the submission of our claims to the Senate, you would increase the consideration from six to eight hundred thousand dollars for the lease. In our communication of the 11th instant, we very briefly stated some of the reasons why we could not consent to such an arrangement, under any circumstances, or for any price; and those reasons, and the addi-

tional objections we have now stated, are, we think, fully sufficient to justify our refusal. In a spirit of accommodation and concession, however, we stated in our letter of the 11th instant, that for the additional two hundred thousand dollars, offered by you, we would consent to your proposition, giving the government the right to settle any Indians in our country except those whose permanent homes are north of the Arkansas, or whose permanent ranges are north of the Canadian river, and those belonging to New Mexico. You not only made us this proposition, but you stated in a subsequent communication of June 7th, to the Acting Secretary of the Interior, that it would "be proper to assure the Choctaws, in express terms in the treaty, that none of the Indians, who now have permanent homes, or whose permanent ranges and hunting-grounds are north of the Canadian and Arkansas, shall be located in the country leased of them." Yet you now insist on a more enlarged proposition, and say, in your letter of the 12th instant, that the government must be left unembarrassed in relation to the Indians to be settled in our country, subject only to the proviso in that proposition which excludes the Indians of New Mexico, and those whose permanent homes and ranges are north of the Arkansas; but which would admit all the wild and lawless tribes and bands of the plains, who range backwards and forwards across that river. We deem it not disrespectful to ask why, if you desire to provide a location for the colonization of the wild Indians north of the Canadian, as well as those south of it, you do not make an arrangement therefor with the Creeks and Cherokees, on and west of whose western borders the ranges of those Indians lie? If all these wild Indians must be brought in upon the more civilized tribes, why not distribute them, instead of attempting to thrust all of them upon the Choctaws and Chickasaws?

And now let us take a brief review of the different propositions respecting the submission of the Choctaw claims to the Senate for adjudication.

Our first proposition, drawn from us in the manner heretofore stated, was, in general terms, to submit the whole subject to the Senate, leaving it to that body to say whether we should have the net proceeds of the lands, or a sum in gross. To this proposition, although it said nothing about the assumption by the Choctaws of the debts of the United States to individuals of the tribe, the Secretary of the Interior said he could see no objection. When the proposition came to be embodied in the project of a treaty drawn up by General Cooper, it was thought proper to provide, that *in case* the Senate should award to the Choctaws the net proceeds of the lands, they should *thereupon* become bound to pay the just claims of individuals of the tribes against the United States. Inasmuch as these claims are, by the treaty of 1830, liens on the lands, there is an obvious reason why the Choctaws should be held bound for their payment, provided they are allowed the proceeds of the lands. But, being under no obligation whatever to assume the debts of the United States, except in the case and for the reason stated, it was also deemed proper to provide, that should the Senate allow a gross sum, instead of the net proceeds of the lands, the Choctaws should not be bound to pay the claims of individuals against the United States, unless the sum so allowed should be received by

them in full satisfaction of all their claims, whether national or individual. This last proposition you proposed to amend, so as to fasten upon the Choctaws, absolutely and unconditionally, the obligation to pay the debts of the United States to the individuals of the tribe; be the sum allowed by the Senate great or small. The ground on which you objected to the provision, as agreed on by General Cooper and ourselves, was, that it made only a partial submission, and did not give to the Senate full power over the subject. We have heretofore assigned good and sufficient reasons for not agreeing to your amendment, which, permit us to say with all due respect, you have not even attempted to answer; but, being anxious to meet your views in every particular, as far as a due regard to the rights and interests of our people will permit, and in order to disabuse ourselves of imputed unwillingness to trust the Senate, we have proposed to stipulate as follows: That, "in case the Senate shall allow a gross sum, instead of the net proceeds of the lands, the same shall be accepted and received by the Choctaws, in full satisfaction of all their national claims against the government, but they shall not be bound to assume and pay the claims of individual Choctaws against the United States; unless the Senate, in making said allowance, shall so direct; it being expressly understood that the adjudication and decision of the Senate shall be final." This, beyond all doubt or cavil, provides for a full and unreserved submission of the whole subject to the Senate, and is consequently free from the objection made by you to the original provision. It comes so near to your own proposition, that we had hoped it would be promptly and cheerfully accepted. And, yet, it seems you are "constrained to reject" it; frankly admonishing us, withal, that if we have the temerity to insist on it, further discussion will be fruitless, and all our negotiations must fail. Whether your admonition was given by way of menace or advice, we have received it kindly, and been led by it to weigh more exactly the difference between your proposition and ours; which, we find, is neither more nor less than this: By your proposition, the Choctaws will be bound to pay the debts of the United States to individuals of the tribe, in any event, and without condition. By our proposition, the Choctaws will be bound to pay said debts, in the event, and upon the condition, that the Senate shall so direct. In other words, you propose that the debts in question be *now and unconditionally* saddled upon the Choctaws; while we propose that it be left to the Senate to decide whether they shall be saddled upon the Choctaws or not—the action of that body being, in both cases, alike final and conclusive. And so it clearly appears, that the only issue between us is, shall the Commissioner of Indian Affairs, or the Senate of the United States, have the privilege of saddling certain government debts upon the Choctaw people? We sincerely regret that you are "unable to perceive the propriety" of declining this privilege in favor of the Senate. There is abundant reason, we think, why you should prefer our proposition to yours.

1st. It will relieve you from what would seem to be an unpleasant task—that of fastening upon the Choctaws a heavy pecuniary burden, without securing to them, at the same time, adequate compensation. Under your proposition nothing is *certain*, except that a heavy liability

of the United States will be transferred from them to the Choctaws. If we had as little confidence in the Senate as your proposition indicates, we should regard it as a proposition to commit the lamb to the wolf.

2d. Our proposition is more respectful to the Senate, because it gives them a larger discretion. Yours, indeed, allows them none.

3d. It may be that the Senate, when they come to consider the subject, will conclude that it would be wrong in principle, or inexpedient, to transfer liabilities of the United States to an Indian tribe, in the manner contemplated; and that the government, in such case, ought to pay its own debts directly to the parties entitled. Under our proposition, it would be competent and consistent for that body so to decide, but under yours it would not.

4th. Should the Senate allow a gross sum, and entertain the opinion that the duty of the government would be best discharged by setting apart a specific portion to be paid directly to individual claimants, it would certainly be proper for them to have the power of making such an award; but your proposition would deprive them of that power.

5th. A provision that the Choctaws shall be bound to pay the debts of the government, whether the Senate shall approve the provision or not, is apparently so arbitrary and harsh, that it may provoke opposition, and endanger the ratification of the treaty.

6th. There is no necessity for such a provision in advance; for, if it be proper to saddle the debts upon the Choctaws, the Senate will doubtless so direct; which direction will be equally binding and conclusive.

7th. Whether the Choctaws shall be charged with the payment of the government debts or not, is a question that the Senate is as competent to decide, justly and wisely, as the Commissioner of Indian Affairs.

8th. Our proposition is in strict conformity to precedent, and yours is not. The policy of putting fetters on the Senate, and of restraining them from excessive liberality to the Indians, is now proposed, we believe, for the first time. We see neither necessity nor excuse for any such ungracious prudence.

It would be an easy task to multiply still further objections to your proposition, and reasons why ours should be preferred; but we trust that enough has been said to satisfy even your mind, that in insisting on our proposition we are not acting from a captious spirit, but from a well-founded conviction of what is right and proper. If there be one substantial reason why you should insist on your proposition, and put an end to our negotiations, because we do not agree to it, the reason has not been suggested by you, nor has it occurred to us.

But you are "nevertheless constrained to reject the mode of submission proposed by us." *Constrained!* In what does the constraint consist? By whom, and how is it imposed? Having demonstrated that the *only* issue between us is, whether you or the Senate shall be permitted to saddle the Choctaws with certain liabilities of the United States; it seems to follow, necessarily, that you must be "constrained" by a desire to deprive the Senate of the privilege, and to do execution

upon us yourself. From such an office we would think our guardian would seek to be delivered. That you have placed yourself in an unnatural position towards the Choctaws in this matter, is, to us, painfully manifest; and we yet indulge the hope that you will reconsider the subject, and conclude not to sacrifice the important interests involved in our negotiations, merely because we have disagreed to an unreasonable and harsh proposition.

Very respectfully, your obedient servants,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND,
DICKSON W. LEWIS,
Choctaw Delegation.

Hon. G. W. MANYPENNY,
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, June 18, 1855.

GENTLEMEN: I have the honor to acknowledge the receipt of your communication of the 14th instant, and to inform you that I have carefully considered its contents.

I shall not, at this time, attempt to reply to your very labored effort, to show that I have not been consistent, in my intercourse and communication with you, in relation to the subject-matter of negotiation.

If necessary, at any time, to vindicate myself, I feel that there is nothing in the way to embarrass me.

The government has had a sincere desire to see the matters of difference or controversy between the Chickasaws and yourselves settled on principles just to both, and thus all cause of irritation removed in the future. Not less has it desired to see the business matters of the Choctaws with the United States so adjusted, if possible, as to command the sanction of not yourselves alone, but the whole of your people; and, in negotiating with you, I have been impressed, I am very sure, with an anxious desire to do whatsoever I could, consistent with duty, to accommodate my views to yours.

In relation to the restrictions you desire to impose in the article leasing a portion of your country, I have frankly, and from the very first time that the articles of convention—drawn up, at your instance, by Agent Cooper—were submitted to me, objected to that clause, and inserted an amendment in pencil, which is still remaining therein.

I also objected, at once, to the language used in submitting certain questions to the Senate; seeing no propriety, whatever, in the qualified submission proposed by the article.

On both these points I have had several free conversations with the Choctaw delegates, and have expressed my opinion very fully and freely, especially as to the absolute necessity of making the award of the Senate, for the claims of Choctaws, whether national or individual, final and conclusive.

I am not enabled, from anything that appears in your last communication, to change my views on this point.

You refer frequently, in your last communication, to the agreement or project of a treaty as drawn up by General Cooper, the United States agent for the Choctaws; and, in one or more instances, in such general language, as to leave the impression that by mutual agreement between, and embodying views as agreed upon by us, he had drawn up the instrument. Of course, such was not your intention; but to avoid the erroneous impression your communication might make on the general reader, it may be proper here to state that General Cooper was not authorized by me to draw up a project of a treaty, embodying the matured views of the delegation and myself, but was instructed to draw up such an instrument as you desired; the contents of which were unknown to me, until the instrument was adopted by yourselves and the Chickasaws, and then handed to me for consideration.

I shall regret if your persistence in the positions you have assumed, on the points of difference, shall defeat the negotiations; but shall, at the same time, feel assured in my own mind that I have asked nothing but what justice and good faith require.

I am fully sensible of the importance of the harmonious adjustment of the questions of irritation that exist between you and the Chickasaw people, and am desirous to see all causes of difficulty removed; and am sincerely anxious that your business matters with the government may be satisfactorily disposed of, to the end that our relations with the Choctaws shall be adjusted and finally settled; and shall extremely regret, if, by your persistence, that which is so desirable and seemed so likely at one time to be accomplished, shall fail.

Very respectfully, your obedient servant,

GEO. W. MANYPENNY,
Commissioner.

MESSRS. P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,

Choctaw Delegates, now in Washington.

Endorsement of Choctaw delegation on the above.

This communication requires no reply. It is no answer to our letter of the 14th instant; and shows that nothing is to be gained by further correspondence with the Commissioner.

WASHINGTON, June 18, 1855.

NOTE.—Having been verbally informed, after the close of the correspondence, that the Commissioner of Indian Affairs was willing to modify his proposition in regard to the lease of a portion of the Choctaw country, so as to make it less objectionable to the Choctaws, the delegation, relying confidently on the justice and liberality of the Senate, concluded to yield to the requirements of the Commissioner; and, on the 22d of June, in conjunction with the Chickasaw delega-

tion, signed a treaty, providing, among other important measures, for the submission of the claims of the Choctaws to the Senate for adjudication; for the adjustment of the matters in controversy between the Choctaws and Chickasaws; and for a lease to the United States of the western portion of the Choctaw country, for the permanent settlement therein of the Wichita and other Indians; said treaty to take effect when ratified by the councils of the two tribes, and by the Senate of the United States.

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND,
DICKSON W. LEWIS,
Choctaw delegation.

APPENDIX.

WASHINGTON CITY, *April 26, 1855.*

GENTLEMEN: We have had the pleasure to receive a communication from your agent, General Cooper, informing us that you are willing to receive and consider any proposition we may see fit to make, in reference to the re-adjustment of the boundary of the Chickasaw district, and the political relations of the Choctaw and Chickasaw tribes, as established by the conventions of 1837 and 1854.

Trusting that you are now well satisfied, that the best interest of your people would be promoted by conforming to the wishes of the government of the United States, respecting the relations between them and the Chickasaws, we proceed at once to submit for your consideration two propositions; each of which, we are convinced, ought to be considered liberal and satisfactory.

First proposition.—That a convention be signed and concluded, relinquishing, on the part of the Choctaws, all title and claim to the land within the limits of the Chickasaw district, and conceding to the Chickasaws exclusive ownership and jurisdiction, as an independent tribe, within said limits; they agreeing to pay in full therefor (\$300,000) three hundred thousand dollars.

Second proposition.—That a convention be signed and concluded, providing:

1st. That the Chickasaws shall have the right, in perpetuity, of a separate and independent government over all that part of the Chickasaw district which is east of the 98° of west longitude.

2d. That no portion of the territory west of the 98° of longitude shall ever be sold, or otherwise disposed of, except with the consent, and for the equal benefit, of both tribes; and until disposed of, it shall be under the jurisdiction and government of the Chickasaws.

3d. That the Choctaws and Chickasaws shall, equally and alike, have the privilege of settling within the territorial limits of either tribe.

4th. That, in full consideration of the foregoing concessions, the Chickasaws immediately pay over to the Choctaw delegation (\$100,000) one hundred thousand dollars.

Soliciting an early response to this communication, we remain,
Your friends and brothers,

EDMUND PICKENS, ^{his} ✕
_{mark.}

SAMPSON FOLSOM,
Chickasaw Delegates.

Messrs. P. P. PITCHLYNN, SAMUEL GARLAND, ISRAEL FOLSOM,
D. H. LEWIS, *Choctaw Delegates.*

WASHINGTON CITY, *April 30, 1855.*

GENTLEMEN: We have received and carefully considered the alternative propositions, made to us in writing by you on the 26th inst., in regard to a change in the existing relations between the Choctaw and Chickasaw tribes.

For reasons not necessary to mention, we could not, under any circumstances, agree to your first proposition. Nor could we agree to the second without material modifications, which we will make known to you in a verbal conference, which we propose, at such time as will suit your convenience, in the presence of Gen. Cooper, our agent, and at his rooms.

Your friends and brothers,

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,
Choctaw Delegation.

To EDMUND PICKENS and
SAMPSON FOLSOM,
Chickasaw Delegation.

WASHINGTON CITY, *April 30, 1855.*

GENTLEMEN: Your communication of this date, in reply to ours of 26th inst., has been received; and, in answer to your suggestion to hold a verbal conference with us, on the subject-matter of our second proposition, we propose to meet you to-morrow morning, at 10 o'clock, at Gen. Cooper's rooms.

We are your friends and brothers,

EDMUND ^{his} PICKENS,
SAMPSON ^{mark.} FOLSOM,
Chickasaw Delegates.

To Messrs. Col. P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAMUEL GARLAND.
DICKSON W. LEWIS,
Choctaw Delegates.

Decision of the Choctaw Delegation, in council, on the propositions of the Chickasaw Delegation, and general terms upon which they will consent to a new arrangement with the Chickasaws.

The Choctaw delegation reject, altogether, the first proposition of the Chickasaw delegation. In their letter to Gen. Cooper, Choctaw agent, of April 24th, they stated, emphatically, that they could not,

under any circumstances; agree to any such proposition, for reasons which they gave. It was only a modified proposition which they agreed to consider.

The second proposition of the Chickasaw delegation, being a modified one, they have taken it into consideration. They cannot agree to it without material modifications.

1st. They wish a western outlet, past or through the proposed modified Chickasaw district. It would be awkward and unsatisfactory to have their country divided, and their jurisdiction sundered, as would be the case by the Chickasaw district running entirely across from Red river to the Canadian, as proposed. In order to give them such an outlet, they propose a restricted northern boundary for the Chickasaw district, viz: a due east and west line, at least thirty miles from the Canadian at the nearest point. The manifest importance and propriety of such an outlet, will, they think, satisfy their Chickasaw brethren of the propriety of a modification of their proposition in this respect.

2d. The Choctaw delegation cannot consent to concede, to their Chickasaw brethren, jurisdiction over the country which may be thrown out by the contraction of their district.

3d. The Choctaw delegation will consent to take the \$100,000 offered by the Chickasaws, provided they will relinquish all interest in the country thrown out of their present district by the contraction of its limits. If the Chickasaws cannot consent to such relinquishment, the Choctaw delegation cannot agree to the concession desired by the Chickasaws, for a less sum than \$200,000.

4th. It must be distinctly understood, and, if necessary, provided for in any new agreement which may be entered into, that the relative interest or control of the two tribes, with respect to the disposition of the country within the Chickasaw district, shall remain as fixed and defined by the convention of 1837.

5th. Other proper details—as to rights of residence and property, of persons of either tribe, within the limits of the jurisdiction of the other; surrender of criminals escaping from the one and taking refuge in the other, &c., &c.—to be provided for in the new convention.

P. P. PITCHLYNN,
ISRAEL FOLSOM,
SAM'L GARLAND,
DICKSON W. LEWIS,

Choctaw Delegation.

WASHINGTON CITY. *April 30, 1855.*

NOTE.—The negotiations between the Choctaw and Chickasaw delegations, for the settlement of the matters in controversy between the two tribes, and which were attended with much perplexity and difficulty, were principally carried on verbally.