

PETITION

OF

B. F. OVERTON,

DELEGATE FROM THE CHICKASAW NATION OF INDIANS,

PRAYING

That the Secretary of the Treasury be authorized to issue a United States Indian trust-fund registered bond, bearing interest at the rate of 5 per centum per annum, and to fund the present Indian trust-fund stocks and bonds at their face value; and that the Secretary of the Interior be authorized to invest all money now held, or that may come into his possession on account of redemption of bonds or stocks belonging to the trust-funds of Indian nations, in like bonds of the United States.

JANUARY 27, 1879.—Ordered to lie on the table and be printed.

To the Congress of the United States:

Your petitioner, a citizen of the Chickasaw Nation, and a duly constituted delegate thereof, respectfully submits the following statement and memorial in regard to Senate bill No. 720, reported from the Committee on Indian Affairs February 13, 1878.

The bill authorizes the Secretary of the Interior to deposit in the Treasury of the United States all sums of money now held by him, or which may be hereafter received in his capacity as trustee for various Indian tribes, on account of the redemption of the United States bonds or other stocks and securities belonging to the Indian trust-fund, and that the United States shall pay interest thereon at the rate of 5 per cent. per annum, semi annually, from the date of deposit in the Treasury.

In the years 1832 and 1834, the Chickasaw Nation, then occupying their ancient lands in the State of Mississippi, entered into four treaties with the United States, whereby they sold to the United States all of their lands east of the Mississippi River, and agreed to emigrate to territory west of that river, and the United States agreed to dispose of the proceeds of sales of their lands in Mississippi in accordance with the following stipulation:

The funds thence resulting, after the necessary expenses of surveying and selling, and other advances which may be made are repaid to the United States, shall, from time to time, be invested in some secure stocks, redeemable within a period of not more than twenty years, and the United States will cause the interest arising therefrom annually to be paid to the Chickasaws. (7 Stat., 382, 385, 454.)

In 1852 the United States and the Chickasaw Nation entered into a treaty which contains the following provision:

ARTICLE 5. The Chickasaw Nation desires that the whole amount of their national fund shall remain with the United States in trust for the benefit of this people, and that the same shall on no account be diminished. It is therefore agreed that the United States shall continue to hold the said fund in trust as aforesaid, and shall constantly keep the same *invested in safe and profitable stock*, the interest upon which shall be annually paid to the Chickasaw Nation: *Provided*, That so much of said fund as the Chickasaws may require for the purpose of enabling them to effect the permanent settlement of the tribe, as contemplated by the treaty of 1834, shall be subject to the control of their general council. (10 Stat., 975.)

By the treaty entered into April 28, 1866, between the United States and the Choctaw and Chickasaw Nations, it is provided as follows:

ARTICLE 10. The United States reaffirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion, and in force at that time, not inconsistent herewith; and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation from and after the close of the fiscal year ending on the 30th of June in the year 1866.

ARTICLE 40. All the rights, privileges, and immunities heretofore possessed by said nations, or individuals thereof, or to which they were entitled under the treaties and legislation heretofore made and had in connection with them, shall be, and are hereby, declared to be in full force, so far as they are consistent with the provisions of this treaty. (14 Stat., 774, 779.)

Article 13, after reciting certain conditions as to certain funds to be held for the benefit of the "light horsemen," &c., proceeds as follows:

And the funds now held in trust by the United States for the benefit of the Choctaws under former treaties or otherwise shall continue to be so held, together with the sum of five hundred thousand dollars out of the amount payable to them under articles eighth and tenth of this agreement, and also whatever balance shall remain, if any, of the amount that shall be allowed the Choctaws by the Senate under the twelfth article hereof, after satisfying the just liabilities of the tribe. The sums so to be held in trust shall constitute a *general Choctaw fund yielding an annual interest of not less than five per centum*, no part of which shall be paid out as annuity, but shall be regularly and judiciously applied, under the direction of the general council of the Choctaws, to the support of their government, for purposes of education, and such other objects as may be best calculated to promote and advance the improvement, welfare, and happiness of the Choctaw people and their descendants. (11 U. S. Stats., p. 613.)

The treaties with the Chickasaws do not specify the rate of interest their funds are to bear, but the treaties with the Choctaws provide that they shall yield "an annual interest of not less than 5 per centum."

When these treaties of 1832 and 1834 were made with the Chickasaws, the Government of the United States was paying on all its stocks an annual interest of 5 per cent. or more. The same is true in regard to the treaty of 1855. The stocks of the various States were all bearing a higher rate of interest than 5 per cent.

The first section of the act of Congress approved September 11, 1841 (5 Stats., p. 465), required the Secretary of the Treasury to invest the interest accruing on the bequest of the late James Smithson, of London, in stocks of the United States bearing a rate of interest not less than 5 per cent. per annum. The second section of the same act is in the following words:

SEC. 2. *And be it further enacted, That all other funds held in trust by the United States, and the annual interest accruing thereon, when not otherwise required by treaty, shall in a like manner be invested in stocks of the United States bearing a like rate of interest.*

The following tables, taken from the Report of the Commissioner of Indian Affairs for the year 1877, pp. 270 and 271, show the stocks in which our trust-funds are invested and the rate of interest they bear:

Stocks.	Per cent.	Original amount.	Amount of abstracted bonds not provided for by Congress.	Amount on hand.	Annual interest.
CHICKASAW NATIONAL FUND.					
State of Arkansas	6			\$168,000 00	\$10,080 00
State of Maryland	6			8,350 17	501 01
State of Tennessee	6			616,000 00	36,960 00
State of Tennessee	5½			66,666 66½	3,500 00
State of Virginia (Richmond and Danville Railroad)	6			100,000 00	6,000 00
United States, registered, act of March 3, 1865	6			550 95	33 06
United States, funded, loan of 1881	5			206,099 70	10,305 00
Total				1,165,667 48½	67,379 07
CHICKASAW INCOMPETENTS.					
State of Indiana	5			2,000 00	100 00

To this must be added \$141,000 5 per cent. United States bonds purchased since this report was made.

Stocks.	Per cent.	Original amount.	Amount of abstracted bonds not provided for by Congress.	Amount on hand.	Annual interest.
CHOCTAW GENERAL FUND.					
State of Virginia, registered	6			\$450,000 00	\$27,000 00
United States, registered, loan of 1865	6			1,781 90	106 91
United States, registered, loan of 1881	5			2,000 00	100 00
Total				553,781 90	27,206 91
CHOCTAW SCHOOL FUND.					
United States, registered, act of March 3, 1865, loan of 1867	6			1,427 20	85 63
United States, registered, loan of 1865	6			16,928 00	1,015 68
United States, registered, loan of 1881	5			32,000 00	1,600 00
Total				50,355 20	2,701 31

From this it will be seen that no investments have ever been made by the United States for either the Chickasaws or Choctaws bearing a less rate of interest than 5 per cent. per annum. The same is true with regard to all other investments of Indian trust-funds.

Your petitioner objects to having their trust-fund covered into the Treasury, as this bill proposes, on the following grounds:

1. It is a plain violation of their treaties as hereinbefore set out. The Chickasaw treaty requires that their funds "shall constantly be kept invested in safe and profitable stocks."

2. From experience and observation we fear that when our funds are once covered into the Treasury we will never be able to get them out should any great calamity befall our people requiring a use of some portion of these funds.

3. We fear that Congress might at some time fail to appropriate our interest on these funds.

Had the second section of the act of Congress approved September 11, 1841, above set out, been faithfully executed, all our trust-funds would now be invested in United States stocks, bearing a rate of interest not less than 5 per cent., which bonds would now be from 15 to 20 per cent. above par. But this act seems to have been disregarded by the United States, so that large sums of our money are now invested in non-paying stocks, and the United States makes annual appropriations to pay to us the interest on the same.

The following from the report of the Committee on Indian Affairs, of the Senate, No. 476, Forty-fifth Congress, second session, shows that no question has been more effectually settled than the liability of the United States for the face value of the non-paying stocks:

In the first place, the question suggested is not an open question. Few questions have been more effectually settled. Congress has, in twenty-one different statutes, covering a period of thirty-three years, asserted and affirmed the obligation of the government to meet the interest on the non-paying stocks. Eight of these statutes were enacted before the late war, the first on the 3d of March, 1845, and thirteen have been enacted since the war, the last on the 3d day of March, 1877. Moreover, the Senate and House of Representatives of the Forty-fifth Congress have, in the Indian appropriation bill, passed at the present session, affirmed the same obligation, by providing for the payment of the current interest on all these non-paying stocks, including those held for the Chickasaws as well as those held for the other nations. In these bills, appropriations have been made for every penny of interest which accrued on the non-paying stocks, in favor of all the nations, *before* the war, *during* the war, and *after* the war, except the interest which accrued in favor of the Chickasaws, on these railroad and turnpike bonds, *between* the 1st of January, 1861, and the 1st of July, 1866. Every dollar which accrued to the Chickasaws *before* and *after* that period has been appropriated and paid. Of these acts, six contained appropriations wholly or partly for *arrears* of interest, and the rest for *current* interest.

If legislative action can possibly settle any question, this question would seem to be "*res judicata*."

In view of all this, and what seems to us to be a growing disposition on the part of Congress to disregard our treaties, we respectfully ask that you will substitute for Senate bill No. 720 a bill authorizing the Secretary of the Treasury to issue a United States Indian trust-fund registered bond, bearing interest at the rate of 5 per cent. per annum, payable semi-annually, and to fund the present Indian trust-fund stocks and bonds at their face value in the same, and authorize the Secretary of the Interior to invest all money now held by him, or that may come into his possession on account of redemption of bonds or stocks belonging to the trust-funds of our nations, in like bonds of the United States.

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