

SURVEY OF LANDS IN THE INDIAN TERRITORY.

[To accompany bill H. R. 1192.]

PROTEST

OF

THE INDIAN DELEGATES

TO THE

Survey of their lands in the Indian Territory, as proposed in the Indian appropriation bill.

APRIL 4, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States :

The undersigned would most respectfully ask leave to call the attention of your honorable bodies to the fact that they have noticed in the Globe of the 2d instant, containing the proceedings of Congress of the 1st instant, that an amendment was offered to the Indian appropriation bill (H. R. 1192) pending before the Senate, by the chairman of the Senate Indian Committee, providing "For the surveys of the exterior boundaries of Indian reservations, and subdividing portions of the same, \$300,000." This amendment, as explained, is for the purpose of carrying out the recommendations of the honorable Secretary of the Interior, embracing "a detailed statement of all the surveys of Indian reservations that yet remain to be executed, accompanying report to the Secretary, February 17, 1872," and proposes to survey and subdivide, with other Indian lands, all the lands owned and occupied by the Indian nations or tribes in the Indian Territory, without their consent. To such survey and subdivision of the lands, reserved to said Indian tribes or nations, we do most respectfully but solemnly and firmly protest, until the said Indians may consent to or request the same, for the following reasons: 1st. That such proceedings would be in violation of the rights of said nations or tribes, and the public faith of the United States, as pledged by treaty stipulations to said Indians.

Article 11 of the treaty of 1806, between the United States and the Choctaws and Chickasaws, provides, "Whereas the land occupied by

the Choctaw and Chickasaw nations, and described in the treaty between the United States and said nations, of June 22, 1855, is now held by the members of said nations in common, under the provisions of said treaty; and whereas it is believed that the holding of said land in severalty will promote the general civilization of said nations, and tend to advance their permanent welfare, and the best interests of their individual members, it is hereby agreed that, should the Choctaw and Chickasaw people, through their respective legislative councils, agree to the survey and dividing their land on the system of the United States, the land aforesaid east of the ninety-eighth degree of west longitude shall be, in view of the arrangements hereinafter mentioned, surveyed and laid off in ranges, townships, sections, and parts of sections." The 47th article of said treaty contains substantially the same provisions, with the further provision that no such survey of the lands of the Choctaws and Chickasaws can be made, without first obtaining the "assent of the President of the United States," (U. S. Stat. at Large, vol. 14.) The Choctaws and Chickasaws have never consented or applied for a survey and subdivision of their lands, nor has the President of the United States ever given his assent to such survey and subdivision. Also, the 20th article of the Cherokee treaty of 1866 (U. S. Stat. at Large, vol. 14) provides as follows: "Whenever the Cherokee national council shall request it, the Secretary of the Interior shall cause the country reserved for the Cherokees to be surveyed and allotted among them at the expense of the United States." The Cherokee national council has never requested the survey and allotment of the lands of the Cherokees; but, on the other hand, the Cherokees have always protested against such a course.

2d. The treaties of 1866, between the United States and the Creeks and Seminoles, to which the honorable Secretary of the Interior alludes (U. S. Stat. at Large, vol. 14) in his recommendation, make no provision whatever for the survey and subdivision of the lands of the Creeks and Seminoles. On the contrary, those treaties, among other things, provide that Congress and the President of the United States may legislate for the protection of the persons and property of the Indian nations or tribes of the Indian Territory, with the express provision, however, that such legislation shall not in any manner "interfere with or annul their present tribal organizations, rights, laws, privileges, and customs." Also, the seventh article of the Choctaw and Chickasaw treaty of 1866 has the same provision, (U. S. Statutes at Large, vol. 14.) These treaty provisions are clearly for the protection of the Indians. Under them all the Indians in the Indian Territory may hold or not, as they choose, their lands in common or in severalty. Under their laws and customs, as they now stand, they all hold their lands in common; and by the terms of the treaties referred to Congress has no right to annul or change these laws and customs without the consent of the Indians themselves.

Furthermore, we respectfully submit that the idea of sacrificing the public faith of the United States with its helpless wards, (the Indians,) who stand to that Government as a little orphan child to its legally and morally bound guardian, would reflect but little credit upon the good name and power of the Government, or upon the present era of civilization and Christianity, especially as such a sacrifice can find no warrant in justice or necessity. The present communal system of the Indians in the Indian Territory, with regard to their lands, works harmoniously, and is well understood by the Indians, and is peculiarly suited to their condition and genius. Under it, the Indians have no paupers or

vagrants, and every one can have a home, and the system is so well organized and protected by treaties and the laws of Congress, as well as the local laws of the Indians, as to prevent any individual Indians from depriving the others of a home by fraud or corruption. This communal system, as compared to the system of holding lands in severalty among the Indians, has, thus far, in the experience of the United States, proved a decided success. For instance, while the Indians in the Indian Territory, holding their lands in common, have steadily increased in numbers and advanced in civilization, the Indians outside of said Territory, who have had their lands allotted in severalty, have rapidly deteriorated and passed out of existence, so that what is left of them, such as the Delawares, Shawnees, Munsees, and many other tribes, have become homeless, and have sought refuge in the Indian Territory, while others in the same condition have been provided for in said Territory, by the treaties of the United States with the Cherokees, Creeks, Seminoles, Choctaws, and Chickasaws, in 1866, (U. S. Stat. at Large, vol. 14.) These treaties provide for what is commonly known as the "Indian policy," which has been so much improved and faithfully observed by President Grant, and which was inaugurated by Congress, by the "Indian intercourse act" of 1802, and the "Indian bill" of 1830, and has been fostered by every administration of the Government since. That policy has for its object the concentration of the Indians in the Indian Territory, as an "Ok-la-ho-ma;" or "home for the red man," in order to civilize him and fit him for a higher and better sphere of action. Its success is amply attested by the annual message of the President of the United States; by the reports of the Secretary of the Interior and the Commissioner of Indian Affairs; and by the reports of the President's "Indian peace commissioners." A survey and subdivision of the lands of the Indians in the Indian Territory at present would break up this policy of the Government, by precluding the settlement of any more Indians in that country, and would leave outside of that Territory, and within the States and Territories of the United States, according to the report of the Secretary of the Interior to the President of October 31, 1871, about 188,895 Indians unprovided for, and who, the Secretary in said report recommends, should be removed from their present locations, and settled in that Territory. In relation to this Indian policy of concentrating the Indians, by the Government, in the Indian Territory, the Hon. Secretary says, in his report: "This gathering together of all the out-lying tribes into a comparatively small Territory is the problem now before us. The proper solution of it must, in a great measure, decide the fate of that race."

* * * "With judicious management, and a careful observance of treaty stipulations, I doubt not that the plan of gathering all the tribes into a smaller area can be successfully accomplished." We therefore repeat that a survey and subdivision of the lands of the Indians in the Indian Territory, before the requisite complement of other Indians now outside of that country can be settled in it, would be *premature*, and violative of the present "Indian policy," and all the acts of Congress on the subject, as well as the treaties between the United States and the Indians, and would also encourage the hordes of land-speculators and squatters who infest the western borders to lay violent hands on the lands of the Indians, and crush them out of the Indian Territory, and thus destroy the last hope of the Indians in North America. Moreover, the proposed survey will confessedly involve an unnecessary expense on the United States of seven or eight hundred thousand dollars. We trust that Congress will make no provisions for the proposed

survey and subdivision of the said Indian lands, until the Indians themselves shall have asked for such action.

We have the honor to be, very respectfully, your obedient servants,

WILL. P. ROSS,

WM. P. ADAIR,

C. N. VANN,

Cherokee Delegation.

PLEASANT PORTER,

D. N. McINTOSH,

JNO. R. MOORE,

SAM'L CHECOTE, *Principal Chief,*

Creek Delegation.

WASHINGTON, D. C., April 4, 1872.

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