

## REMONSTRANCE OF THE CHOCTAW DELEGATES.

JUNE 16, 1874.—Referred to the Committee on Indian Affairs and ordered to be printed.

*To the President of the Senate and the Speaker of the House of Representatives:*

The undersigned, delegates representing the Choctaw Nation, beg leave respectfully to call attention to the subjoined remonstrance submitted by them on the 2d May last against the passage of Senate bill No. 680, for the relief of certain persons of African descent, and also to the answer thereto of the Secretary of the Interior, bearing the same date.

The bill in question, the remonstrance, and the reply of the Secretary all relate to the provisions of the third article of the treaty of April 28, 1866, with the Choctaws and Chickasaws, which article is recited at length in the remonstrance.

The chief objections to the bill were:

First, that it violated the treaty in this: that the treaty, in enumerating certain privileges which might be granted to the freedmen among them by the Choctaws and Chickasaws, expressly excepted any share of their "annuities, moneys, and public domain," while the bill, professing to be founded upon the treaty, overrides and annuls it by giving them an equal share in such "annuities, moneys, and public domain."

Secondly, that the rights, privileges, and immunities, including the right of suffrage of citizens of said nations, had already been conferred by the Chickasaws, and would long since have been conferred by the Choctaws, but for the fact that the freedmen residing among them had uniformly expressed their unwillingness to be placed on the footing of Choctaw citizens.

This fact, obviously of the utmost importance in considering this question, the Secretary ignores, although it was officially ascertained and reported by one of his subordinates, and is well known to every one, white, black, or red, in the least familiar with the subject.

As to the first objection, the Secretary says: "The Choctaw and Chickasaw Nations are under treaty obligations to secure to these people the rights, privileges, and immunities of citizens, including the right of suffrage. They ought to have done so long since. Their failure to do so is a great wrong and a great injustice which should be speedily corrected."

A glance at the third article of the treaty will show that no such obligation is imposed upon or assumed by the Choctaws and Chickasaws. The treaty simply presents to the two nations the alternative of granting or not granting such rights and privileges, specifying what is to be done on the one hand, in case they *do* grant them, or on the other, in case they do *not* grant them, and what, in the latter event, is to be done by the United States.

"But," says the Secretary, "ought these people to have an equal right in the annuities and public domain of the Choctaw and Chickasaw Na-

tions? Let us see. The present annuity fund of these nations amounts to about one hundred dollars *per capita*. The United States, by the treaty aforesaid, secured to these persons of African descent, under conditions, one hundred dollars *per capita*, and this is about what the three hundred thousand dollars amounts to.

"By the second section of the bill objected to, this three hundred thousand dollars is to be invested and paid in trust for the use and benefit of the Choctaw and Chickasaw Nations, so that these persons of African descent will bring to the trust-fund of said nations a sum *per capita* equal to the amount *per capita* of the present annuity trust-fund of these nations."

The \$300,000, which the Secretary says "these persons of African descent will bring to the trust-fund of said nations," is specified in the third article of the treaty as the price of certain territory west of 98°, "known as the land-district," therein ceded by the Choctaws and Chickasaws.

This district, embracing the country between 98° and 100° of west longitude, south of the Canadian and north of Red River, extends 110 miles east and west, and on an average over 100 north and south, and consequently contains upward of 11,000 square miles, or over 7,000,000 acres of land. It was leased to the United States by the ninth article or the treaty of June 22, 1855, for certain purposes and under certain restrictions therein specified, which practically left the ownership with the Choctaws and Chickasaws, who retained the right of settlement and occupation.

For this lease the United States paid in 1855 \$400,000, the treaty providing \$800,000, the other \$400,000 being for the claim of the Choctaws for lands west of the 100th meridian conveyed to them by the treaty of 1820, which grants all the country lying between Red River and the Canadian, from the mouth of the latter to its source.

When the Government wanted to extinguish the title of the Choctaws and Chickasaws to the leased district in 1866, the undersigned, P. P. Pitchlynn, objected to the proposed price as wholly inadequate, the \$300,000 added to the \$400,000 previously paid, making in all \$700,000, or ten cents an acre for 7,000,000 of acres of territory well known to be every way superior in value to the country the United States was then purchasing from the Seminoles at fifteen cents an acre, and at least equal to what they were buying from the Creeks at thirty cents.

This inadequate price of the property of the Choctaws and Chickasaws is the sum which the Secretary says "these persons of African descent will bring to the trust-fund of said nations," and this disposition of a scanty allowance for our own territory, "it seems," to the Secretary, "answers satisfactorily the objection to this bill, so far as it relates to the rights of the Africans to the annuity-funds of the Choctaw and Chickasaw Nations."

"But the bill," he adds, "also gives to these Africans an equal right in the public domain claimed by said nations. Is this wrong? Lands are not held in severalty by these nations; they are held in *common*; the treaty contemplated making the Africans citizens, with equal rights and privileges with the Choctaws and Chickasaws, and upon this principle, in justice and equity, the common property of the nation should belong as much to the Africans made citizens as to the native-born citizens of said nations."

Whatever the treaty may "contemplate," it expressly excepts the equal share in lands, and in place thereof gives each freedman forty acres.

The treaty either is or is not the governing rule. If it has any force at all in the matter, it settles the whole question by restricting the freedmen to forty acres of land apiece, and by excluding them from any share in the public funds.

If it has no force; if it is not entitled to consideration, why refer to it at all? Why not say in so many words, "These freedmen have always lived in the Indian country and want so much Indian money and land; therefore, be it enacted that they shall have it?"

The Secretary says the argument against this provision, drawn from a pretended analogy between this case and that of the liberated slaves of the confederacy, does not rest upon a solid foundation.

The treaty gives each of our freedmen forty acres of land, which the bill in effect increases to 480. We objected that no such provision had been made for the liberated slaves of the confederacy; that no land had been given them—not even 40 acres, much less 480. That is the simple truth, whether the foundation it constitutes is solid or not. The "analogy" only fails in this: that ample provision is proposed to be made at our expense for our freedmen, while no provision at all has been made for the freedmen of the confederacy.

The Secretary intimates that there is something in the manner in which our national property was acquired, and in the extent of the improvements made by the freedmen, and in their additions to our national wealth, which, altogether, make the provisions of the bill only a matter of justice.

Precisely what he means by any of these intimations it is not easy to understand. It probably would not be easy for him to explain. But it is easy for any one to ascertain, by consulting the treaties, "the manner in which the Choctaw and Chickasaw Nations acquired their property;" that they have given full value for all they possess, and that the freedmen had nothing to do, directly or indirectly, with the acquisition.

It would be equally easy to ascertain, by inquiry and inspection on the spot in each case, that the improvements made in our country by the freedmen are not equal in proportion to their numerical strength.

In conclusion, we desire to repeat emphatically in reply to the charge so strongly urged by the Secretary of injustice on our part in withholding the rights and privileges of citizenship and suffrage, that up to this day the freedmen have never indicated directly or indirectly to any of us that they desired such rights, but, on the contrary, have uniformly expressed their wish to remain under the exclusive jurisdiction of the United States. If they had really wanted the privileges specified in the treaty, they could long since have secured them.

All of which is respectfully submitted.

P. P. PITCHLYNN,  
*Delegate of the Choctaw Nation.*  
WILLIAM ROEBUCK,  
McKEE KING,  
*Special Delegates.*

By P. P. PITCHLYNN.

WASHINGTON, June 12, 1874.

*List of papers accompanying foregoing memorial.*

- A.—Letter from Acting Secretary Cowen to Hon. J. G. Blaine.
- B.—Copy of Senate bill No. 680.
- C.—Remonstrance of Choctaw delegates against passage of Senate bill No. 680.
- D.—Reply of Secretary Delano to Choctaw remonstrance.

## A

[House Ex. Doc. 212, Forty-third Congress, first session.]

## TREATY WITH THE CHOCTAW AND CHICKASAW INDIANS.

*Letter from the Acting Secretary of the Interior, in relation to a treaty made with the Choctaw and Chickasaw Indians April 28, 1866. April 14, 1874, referred to the Committee on Indian Affairs and ordered to be printed.*

DEPARTMENT OF THE INTERIOR,  
Washington, D. C., April 4, 1874.

SIR: I have the honor to invite your attention to articles second and third of a treaty made with the Choctaw and Chickasaw Indians April 28, 1866, (Stat. at L., vol. 14, p. 769.)

The second article of said treaty provides for the abolition of slavery.

The third article of the treaty provides that, in consideration of the sum of \$300,000 to be paid to said Choctaw and Chickasaw Indians by the United States, the said Indians agreed to cede to the United States that territory west of the 98th degree of west longitude known as the leased district. Said sum of money to be invested and held by the United States at an interest of not less than 5 per cent., in trust for the said nations until the legislatures of the Choctaw and Chickasaw Nations respectively shall have made such laws, rules, and regulations as might be necessary to give all persons of African descent, resident in said nations at the date of the treaty of Fort Smith, and their descendants, heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations respectively.

That treaty also provided to give to such persons who were residents as aforesaid, and their descendants, forty acres each, of the land of said nations, on the same terms as the Choctaws and Chickasaws, to be selected on the survey of said lands, after the said Indians and the Kansas Indians had made their selections as elsewhere provided. Immediately upon the enactment of such laws, rules, and regulations by the legislative councils of the Choctaw and Chickasaw Nations, the said sum of \$300,000 was to be paid to the said Choctaw and Chickasaw Nations, in the proportion of three-fourths to the former and one-fourth to the latter, deducting therefrom such sum, at the rate of \$100 *per capita*, as should be sufficient to pay such persons of African descent, before referred to, who within ninety days after the passage of such laws, rules, and regulations, should elect to remove, and actually remove, from said nations respectively.

Said article third furthermore provides that should such laws, rules, and regulations not be made by the legislatures of said nations respectively within two years from the ratification of said treaty, then the said sum of \$300,000 shall cease to be held in trust for the said Choctaw and Chickasaw Nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from the said territory in such manner as the United States shall deem proper. The United States agreed in said article, within ninety days from the expiration of the said two years after the enactment of said laws, to remove from the said nations all such persons of African descent as might be willing to remove.

Almost eight years have passed since the ratification of the treaty above referred to, and the legislatures of the Choctaw and Chickasaw Nations have not enacted any laws, rules, and regulations in behalf of the persons of African descent above referred to.

The ancestors of these negroes came to the Indian Territory with the Choctaw and Chickasaw Nations from the State of Mississippi, and have been with them continuously since that time in the capacity of slaves. They were freed by the treaty of 1866, and have been since then enjoying the privileges of freedom. They are reported to be industrious, sober, and frugal people, desirous to learn, anxious to secure to themselves homes in severalty, and, above all, anxious to remain in the country where they now live, and which is the only home they have ever known. And, so far as the Department has been able to ascertain, none of them will ever leave that country voluntarily. They have formed strong attachments to the soil; they have acquired, as far as the peculiar laws and regulations governing the Indian nations will permit, homesteads, and have cultivated farms. A strong prejudice seems to exist against these freedmen on the part of the Choctaws and Chickasaws, which will account in some measure for the failure of these nations to provide by law for the division among them of the lands of the nations.

The Creek, Seminole, and Cherokee Nations have each adopted the freedmen into their tribes, and given them equal rights and privileges with other citizens of the nation. The Choctaws and Chickasaws, I understand, have refused to do so. The condition of these negroes strongly appeals to the United States Government for some action that will fix their status and give them all that they are entitled to by the terms of the treaty above quoted.

I have the honor to submit herewith the draught of a bill which, in my judgment, will secure to these freedmen all the rights and privileges to which they are entitled under the treaty. The bill also gives them the right of suffrage and an equal share in the annuities, moneys, and public domain claimed by or belonging to said nations respectively. While this may not be exactly in accordance with the letter of the treaty, I am satisfied that it is simply a matter of justice to this class of persons, who have always been residents of said nations, and who are now industrious, law-abiding, and useful citizens thereof.

I respectfully invite the attention of Congress to this subject, and trust that it may receive favorable consideration.

Very respectfully, your obedient servant,

B. R. COWEN,  
*Acting Secretary.*

Hon. JAS. G. BLAINE,  
*Speaker House of Representatives.*

B.

The subjoined "act" is the "draught of a bill" referred to in the foregoing letter of Acting Secretary Cowen, and is a copy of the bill referred to as Senate bill No. 680.

AN ACT for the relief of certain persons of African descent, resident in the Choctaw and Chickasaw Nations on the 25th day of April, A. D. 1866.

Whereas, by the treaty concluded April 28, 1866, and proclaimed July 10, 1866, between the United States and the Choctaw and Chickasaw Indians, it was provided that slavery and involuntary servitude should cease in said nations, and that the said Indians should, and thereby did, cede to the United States certain territory west of the 98° west longitude, known as the leased district, and, in consideration thereof, the United States bound themselves to pay the sum of \$300,000, which sum was to be invested and held by the United States at interest, not less than five per cent. interest, for the said nations, until the legislatures of the said Choctaw and Chickasaw Nations should make such laws, rules, and regulations as might be necessary to give to all persons of African descent resident in the said nations at the date of the treaty of Fort Smith, (September 10, 1865,) and their descendants theretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations respectively, and should give to each of said persons, resident as aforesaid, and their descendants, forty acres of the land of said nations on the same terms as the Choctaws and Chickasaws held the same, to be selected on the survey of said land after the Choctaws and Chickasaws and Kansas Indians had made their selections as provided in said treaty; and

Whereas it was further provided by the said treaty that, immediately after the enactment of said laws, rules, and regulations, the said sum of \$300,000 should be paid to the said Choctaw and Chickasaw Nations in the proportion of three-fourths to the former and one-fourth to the latter, less such sum, at the rate of \$100 *per capita*, as should be sufficient to pay the said persons of African descent who, within ninety days after the passage of said laws, rules, and regulations, should elect to remove, and should actually remove, from said nations respectively; and

Whereas it was further provided by the said treaty that, in the event that said laws, rules, and regulations should not be enacted by the legislatures of said nations respectively within two years from the ratification of said treaty, then the said sum of three hundred thousand dollars should cease to be held in trust for the said Choctaw and Chickasaw Nations, and should thereafter be held in trust for the use and benefit of said persons of African descent as the United States should remove from the said territory; and

Whereas the United States did thereby agree, within ninety days from the expiration of the said two years, to remove from said nations all of said persons of African descent who were willing to remove therefrom; and

Whereas the said sum of \$300,000 has not been paid or invested in the manner above specified, or otherwise, and the said legislatures have not, nor has either of them, made the laws, rules, or regulations hereinbefore referred to, or any of them, and the United States have not removed any of said persons of African descent; and

Whereas the said persons of African descent are now anxious to remain in the territory of said Choctaw and Chickasaw Nations and to become incorporated with the citizens thereof: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all persons of African descent who were resident in the territory of the Choctaw or Chickasaw Nation on the 28th day of April, A. D. 1866, and who had, before that, been held in slavery among said nations, or either of them, and all the descendants of such persons, shall be entitled to all the rights, privileges, and annuities, including the right of suffrage, of citizens of said nations, respectively, and the annuities, moneys, and public domain claimed by or belonging to said nations, respectively.

SEC. 2. *Be it further enacted,* That the Secretary of the Treasury is hereby authorized and required to issue bonds of the United States, payable in twenty years from date, principal and interest in gold coin, bearing interest at five per cent. per annum, payable semi-annually, for the sum of \$300,000, each of said bonds to be for the sum of \$500, or some multiple of said sum, as the Secretary of the Treasury may deem best, and to deliver the same to the Secretary of the Interior, to be by him held in trust for the use and benefit of the Choctaw and Chickasaw Nations in the following proportions, to wit: three-fourths for the Choctaw and one-fourth for the Chickasaw Nation; and, upon the same being done, the said leased district, ceded by the said nations to the United States for the sum of \$300,000, shall be deemed to have been paid for, and the United States released from any further obligation for the same.

## C.

REMONSTRANCE OF CHOCTAW DELEGATES AGAINST THE PASSAGE OF SENATE BILL NO. 680, FOR THE RELIEF OF CERTAIN PERSONS OF AFRICAN DESCENT.

*To the President of the Senate and the Speaker of the House of Representatives of the United States :*

The memorial of the undersigned delegates, representing the Choctaw Nation, respectfully sheweth : That they have seen with surprise Senate bill No. 680, introduced April 8, 1874, "for the relief of certain persons of African descent resident in the Choctaw and Chickasaw Nations on the 28th day of April, 1866," and ostensibly based upon the treaty concluded on that day with said nations.

The third article of that treaty is in the following words :

"The Choctaws and Chickasaws, in consideration of the sum of \$300,000, hereby cede to the United States the territory west of the ninety-eighth degree of west longitude, known as the leased district, provided that the said sum shall be invested and held by the United States, at an interest not less than five per cent., in trust for the said nations, until the legislatures of the Choctaw and Chickasaw Nations, respectively, shall have made such laws, rules, and regulations as may be necessary to give all persons of African descent, resident in the said nations at the date of the treaty of Fort Smith, and their descendants, heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations, respectively, and also to give to such persons who were residents as aforesaid, and their descendants, forty acres each of the land of said nations, on the same terms as the Choctaws and Chickasaws, to be selected on the survey of said land, after the Choctaws and Chickasaws and Kansas Indians have made their selections, as herein provided; and, immediately on the enactment of such laws, rules, and regulations, the said sum of \$300,000 shall be paid to the said Choctaw and Chickasaw Nations, in the proportion of three-fourths to the former and one-fourth to the latter, less such sum, at the rate of \$100 *per capita*, as shall be sufficient to pay such persons of African descent before referred to as, within ninety days after the passage of such laws, rules, and regulations, shall elect to remove, and actually remove, from the said nations, respectively. And should the said laws, rules, and regulations not be made by the legislatures of the said nations respectively within two years from the ratification of this treaty, then the said sum of \$300,000 shall cease to be held in trust for the said Choctaw and Chickasaw Nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from the said territory, in such manner as the United States shall deem proper—the United States agreeing, within ninety days from the expiration of the said two years, to remove from said nations all such persons of African descent as may be willing to remove; those remaining, or returning after having been removed from said nations, to have no benefit of said sum of \$300,000, or any part thereof, but shall be upon the same footing as other citizens of the United States in the said nations."

By this article it will be seen—

I. That the Choctaws and Chickasaws cede their territory west of 98° for \$300,000.  
 II. That the money was to be held in trust until certain questions were settled in regard to the freedmen among them in September, 1865, and their descendants.

III. The Indians were to decide in two years whether or not they would give such freedmen and their descendants political equality and 40 acres of land each.

IV. That such political equality was not to include any share in national funds, or in public domain beyond the 40 acres specified.

V. If they make such concessions of land and political equality within the two years, they were to receive the \$300,000, less \$100, for each freedman who might leave their country within three months after the concession.

VI. If no such concession was made, the Government promised to remove, within ninety days after the two years expired, all the freedmen willing to go.

VII. Those removed were to have the \$300,000.

VIII. Those not removed or returning after removal, were—

First. To have no part of the \$300,000.

Second. To stand on the same footing as other citizens of the United States in the Indian Territory.

The ratification of this treaty was proclaimed July 10, 1866.

No laws securing land or citizenship to the freedmen were passed by either Choctaws or Chickasaws during the prescribed two years.

The United States did not fulfill its promise to remove the freedmen or any one of them from the Choctaw and Chickasaw territory within the stipulated period of ninety days, which expired on the 8th October, 1868, nor have any of them removed or been removed since then.

Consequently, by the plain and unmistakable language of the treaty, they have been for the last five and a half years, and are now, in the Choctaw and Chickasaw country, "on the same footing as other citizens of the United States in said nations," and therefore in the Indian country without the rights and privileges peculiar to Indians.

So far as the Choctaws are concerned, nothing has been done, either in or out of their national council, to modify or effect this footing, the Choctaw people having taken no steps whatever, either individually or in their national capacity, for or against the freedmen among them.

On the 9th November, 1866, the Chickasaw legislature passed an act accepting and approving the treaty as ratified and proclaimed, and requesting the United States to remove the freedmen from among them, and to hold for the benefit of said freedmen the sum of \$300,000 provided in the third article.

This request the same body virtually retracted in January, 1873, by passing another act granting the freedmen the privileges of land and citizenship to the extent and upon the conditions specified in the treaty.

The Choctaw council would long since have done the same thing, but for the very important fact, which ought not to be lost sight of in examining this question, that the freedmen have uniformly refused to be subjected to the Choctaw laws. They wanted the privileges of citizenship without its obligations. They were willing to vote, to hold office, and to take land, but were not willing to obey the laws.

The United States agent, Captain Olmstead, on September 21, 1869, reported officially to the Indian Office, that the freedmen decided in a body to remain, if possible, in the Choctaw and Chickasaw country, "but that they were desirous of living under the protection of the United States Government, as they were unwilling to be left under the sole control of the Indian tribes, or of any State or community where they would be deprived of a direct appeal to the Government on every question involving their interests." At the same time he reported "the Choctaws as in favor of having the freedmen remain."

Again, on November 1, 1869, the same agent reported "that the freedmen, while generally desiring to retain their residence in the Indian country, desire it only upon the condition that they remain under the exclusive jurisdiction of the courts of the United States; and 168 of the freedmen themselves, in a petition to Congress in December, 1870, say that they "are not willing to be adopted by the Choctaw Nation, or become citizens of any Indian nation."

These various statements, officially recorded in Mis. Doc. H. R. No. 46, 2d sess. Forty-second Congress, simply represent the impressions constantly made by the great body of the freedmen among them upon the Choctaws, and which have prevented the latter from adopting them as citizens.

So far as we are informed, this feeling still prevails. We have no reason to believe that any considerable number of those among us would be willing to accept the privileges of citizenship, if such acceptance involved submission to Choctaw laws.

It is true that some of the freedmen have expressed a willingness to be incorporated with the Chickasaws and to become subject to their laws, and the expression of such willingness on their part is no doubt the foundation for so much of bill No. 680 as implies that all the freedmen among both nations are alike willing to accept the obliga-

tions of citizenship, which, so far as those among the Choctaws are concerned, is a very serious mistake.

But admitting that *all* the freedmen among both tribes are really, as the bill alleges, "anxious" to become incorporated with them as citizens, the provisions of the bill to effect that object are widely different from the stipulations of the treaty, and are, as it seems to the undersigned, palpably unjust to both Choctaws and Chickasaws.

The treaty restricts the freedmen to forty acres of land each, and excludes them from any participation in national funds. This bill gives them an interest in both land and money equal to that of any other citizen; that is, it takes from the Choctaws and Chickasaws part of their property, and gives it to the freedmen, without any compensation whatever to the owners. On what principle of right or justice this proposition rests we are at a loss to conceive.

The land and money which the bill proposes to take are part of the proceeds of territory held by the Choctaws and Chickasaws long before they ever saw or heard of either black people or white.

In their dealings with the whites, some of them occasionally bought and paid for slaves, who were recognized at the time as property by the Constitution, the laws, the Government, and the people of the United States.

When slavery was abolished by the power that had formerly sanctioned it, the Choctaws and Chickasaws, of course, submitted to the consequent loss. It is true that they had no other alternative. But they submitted cheerfully, without complaining, as they might reasonably have complained, of the confiscation of property to such an enormous amount. They did not urge, as they might have urged, that the sins of the American people ought not to be visited upon them by making them pay a fine equal to a million of dollars.

In strict justice, as between man and man, they might fairly claim indemnity. Slavery was not known among them till it was introduced by the American people. Slave property was received by them from the Americans in place of money, chiefly in exchange for individual reservations of land, sold usually for less than its value.

If the price paid became worthless by the act of the purchaser, it would seem no more than right that the purchaser should make good the loss.

But instead of making good our losses, Senate bill No. 680 proposes to increase them. It proposes to take from the Choctaws and Chickasaws several hundred thousand dollars in money and nearly a million and a half of acres of land, to be given to the freedmen, over and above the forty acres provided by the treaty.

No such measure has been enforced against the citizens of the States which held slaves before the war. None of the former slaveholders of the confederacy have been compelled to share their land or other property with the freedmen.

Obviously, if they were exempt from such penalties, we ought to be. If slavery was wrong, was a crime to be punished, the real offenders were the whites, not the Indians. So far as the Indians are concerned, the responsibility of the wrong lies upon the people and the Government of the United States, and any reason which might be urged in justification of the punishment of the white slaveholder could not possibly apply to the Indian, who was constantly urged by the United States Government to imitate the ways of the white man.

Moreover, to discriminate against the Indian and in favor of the white man is palpably unjust, in this: Each individual slaveholder in the States held his own land in severalty, and could be made individually responsible for his own acts, without implicating or punishing the non-slaveholder. With us it is different. Our lands are held in common; so are our invested funds, stocks, annuities, &c. The aggregate property, real and personal, held in common by both tribes, belongs to 20,000 citizens, of whom only 500 were slaveholders. The 19,500 who never owned slaves are required to give up *one-seventh* of their interest in the common stock as a penalty for the slaveholding sins of *one-fortieth* of the whole body of both nations. The white man, who can be reached as an individual offender, goes scot-free, while the Indians are punished in mass, the innocent with the guilty, in the proportion of forty innocent to one guilty. The injustice of such a proceeding is too obvious to need any argument or comment.

Again, as to the freedmen themselves, was there anything in the case of the seven or eight thousand slaves held in the Indian Territory to give them stronger claims than the four millions held in the States?

It will not be pretended that there was any equitable reason for discriminating either on the one hand against the slaveholder in the Indian country—the Indian slaveholder in favor of the white—or, on the other, in favor of the slave who was owned by an Indian as against the slave who was owned by a white man.

It was no greater sin for an Indian to hold a slave than it was for a white man.

It was no greater hardship for the slave to be owned by the Indian.

Bondage in the Indian country was not more grievous than it would have been in the States, not as much so, for, as a rule among the Indians, the slaves did as they pleased, and never wanted to be sold to the white people.

The Acting Secretary himself says the freedmen are anxious to remain in the country



where they now live. If that is true, it is pretty good evidence that their homes could not have been made odious to them by harsh treatment in the past, or, as is sometimes falsely alleged, in the present.

But it is alleged, apparently as a reason why this bill should pass, that "the Creek, Seminole, and Cherokee Nations have each adopted the freedmen into their tribes, and given them equal rights and privileges with other citizens." True, but not, as the Secretary seems to think, as a "matter of justice to this class of persons." Justice had nothing to do with the action of either Cherokees, Creeks, or Seminoles in the premises. The war had created political dissensions and divisions in every one of the three tribes named, large numbers of each having adhered to the Union, while large numbers of each joined the confederates. When the attempt was made in 1866 to heal these dissensions by new treaties, each of the contending parties wanted to secure influence at Washington and increased political power at home. For such influence and power they were willing to pay by large concessions to the freedmen, who were looked upon at that time as a considerable element of strength. The idea never occurred to any one of those who made the concessions that they were doing an act of justice, or that the negroes had any legal or equitable *claim* to a share of their property.

Among the Choctaws and Chickasaws there were no such divisions. There was consequently no balance of power to be conciliated. To urge the example of the Cherokees, Creeks, and Seminoles upon them is to say, in effect, "Your neighbors fell out among themselves, you did not. Your neighbors had to pay for their quarrel, and you ought to pay because you did *not* quarrel"—a mode of reasoning which is strictly in keeping with the bill itself, and with the letter from the Acting Secretary of the Interior, (Ex. Doc. 212., H. R., 1st sess. 43d Cong.,) recommending it. For example, the letter says the bill gives the freedmen "an equal share in the annuities, moneys, and public domain." "This may not be exactly in accordance with the letter of the treaty."

It is not only not "exactly" in accordance with the letter of the treaty, but it is "exactly" what the treaty says shall *not* be done, as the bill itself shows in the first paragraph of the preamble, which, curiously enough, points one way, while the enacting clauses point the other.

Condensed into plain English, the bill says:

"Whereas the treaty provides forty acres of Indian land for each freedman, if the owners will give it; and whereas the owners will *not* give it: Therefore

*Be it enacted*, That each freedman shall have 480 acres of such land."

Again, in the same peculiar style of reasoning:

"Whereas the treaty excludes the freedmen from *any* share in the Indian annuities: Therefore

*Be it enacted*, That the freedmen shall have an equal share in such annuities."

While it is difficult so to analyze the third article as to define precisely how much of the \$360,000 therein provided was to be paid for territory west of 98°<sup>o</sup>, and how much for concessions to the freedmen, the article itself shows that before the signing of the treaty the Choctaws and Chickasaws had certain rights:

1st. A claim to the territory west of 98°<sup>o</sup>, which the United States recognized and were willing to pay for.

2d. The right to decide whether the freedmen should or should not enjoy the privileges of citizenship in their country, and should or should not participate in the ownership of their national property.

So the matter stood when the treaty was signed. How does it now stand? Manifestly, as it seems to the undersigned, in the unsettled state of an open question, as well because of what the contracting parties have done as because of what they have not done.

The freedmen for whose benefit the article was inserted have shown their unwillingness to assume the obligations of the citizenship which the article meant to procure for them.

The Chickasaws have first refused and then agreed to adopt them, but did not agree till after the time specified in the treaty had expired.

The Choctaws have not acted at all.

The United States have not fulfilled their promise to remove the freedmen, though requested by large numbers of them to do so, and have paid no part of the purchase money for the country west of 98°<sup>o</sup>.

To the undersigned, therefore, it seems that the more equitable course would be to make a new arrangement, having for its object:

1st. To define the rights of the Choctaws and Chickasaws in the territory west of 98°<sup>o</sup>.

2d. To ascertain positively whether the freedmen, or any of them, do or do not want to become citizens of either the Choctaw or Chickasaw Nation, and if so, whether they are willing to assume the same obligations resting upon other citizens.

3d. To settle the terms upon which the privileges of citizenship shall be conceded to those of the freedmen desiring them.

A thorough investigation of the kind which ought to precede such an arrangement will result in establishing the fact that there is no prejudice on the part of the Choctaws against the freedmen, and that up to this day not one of the latter has ever applied

to the Choctaw council, or in any other manner signified to the Choctaws, a desire to be adopted among them as a citizen. To pass the bill recommended by the Secretary would, therefore, not only be an act of palpable injustice to the Indians, but would be forcing upon the freedmen what very few of them have asked for.

All of which is respectfully submitted.

P. P. PITCHLYNN,  
WILLIAM ROBUCK,  
MCKEE KING,  
*Choctaw Delegates.*

WASHINGTON, *May 2, 1874.*

In behalf of the Chickasaw Nation, I fully approve of the foregoing memorial and concur in its representations.

D. O. FISHER,  
*Chickasaw Delegate.*

P.

[Senate Mis. Doc. No. 118, Forty-third Congress, first session.]

*Letter from the Secretary of the Interior to the chairman of the Senate Committee on Indian Affairs, relative to Senate bill No. 680, for the relief of certain persons of African descent resident in the Choctaw and Chickasaw Nations. June 21, 874.—Ordered to be printed.*

DEPARTMENT OF THE INTERIOR,  
*Washington, D. C., May 2, 1874.*

SIR: I have examined Senate bill No. 680, for the relief of certain persons of African descent resident in the Choctaw and Chickasaw Nations on the 28th day of April, 1866, which you have been pleased to forward to me, with a remonstrance of the Choctaw delegates against the passage of said bill.

The present condition of the persons of African descent resident among the Choctaw and Chickasaw Nations on the 10th of September, 1865, should be thoroughly understood in order to judge of the propriety of passing the bill, and in order to appreciate the force of the objections made against its passage by the remonstrance.

I proceeded to state the condition of these people at the date aforesaid.

But by the treaty of April 28, 1866, between the United States and the Choctaw and Chickasaw Indians, it was provided that slavery should cease in said nations, and that said Indians should cede to the United States certain territory west of the 98th degree west longitude, known as the leased district, and in consideration thereof the United States should pay the sum of \$300,000, to be invested in United States 5 per cent. bonds until the legislatures of the Choctaw and Chickasaw Nations should make such laws, rules, and regulations as might be necessary to give all persons of African descent resident therein on the 10th of September, 1865, and their descendants, theretofore held in slavery, all the rights, privileges, and immunities, including the right of suffrage, of the citizens of said nations, except in the money annuities and in the public domain belonging to said nations. Said nations were also to give each of said persons of African descent and their descendants forty acres of land on the same terms as the citizen Choctaws and Chickasaws held the same. It was further provided that said persons of African descent, who, within ninety days after the passage of such laws, rules, and regulations, should elect to remove from said nations, should have \$100 each out of the \$300,000 before mentioned, and that the balance should be paid to the Choctaw and Chickasaw Nations in the proportions mentioned in the treaty. It was further provided that if such laws and regulations should not be enacted by the legislatures of said nations, respectively, within two years from the ratification of the treaty aforesaid, then the said sum of \$300,000 should cease to be held in trust for the said Choctaw and Chickasaw Nations, and should thereafter be held in trust for the use and benefit of said persons of African descent, the United States agreeing, within ninety days from the expiration of said two years, to remove said persons of African descent from said nations as far as they were willing to be removed.

Now for the facts. Neither the Choctaw nor the Chickasaw Nation has secured to said persons of African descent the rights, privileges, and immunities, including the right of suffrage, provided for in the treaty. The United States has not removed any of the said persons of African descent, because such persons are so identified by marriage and custom with said nations as to be unwilling to break up their homes and go elsewhere.

The \$300,000 has not been invested nor paid to the Choctaw and Chickasaw Nations; and the said persons of African descent, who are the most industrious and useful portion of the population of each nation, are without the rights, privileges, and immuni-

ties of citizens, without the right of suffrage, without land, and without money, and with a disinclination, under all these painful embarrassments, to leave their homes, friends, and relatives, and go elsewhere, for the pitiful sum of \$100 *per capita*. They are as meritorious, to say the least, as the average Choctaw and Chickasaw population. They have probably done as much toward securing the wealth possessed by said nations *per capita* as the average Choctaw and Chickasaw population. Under these circumstances their condition is not simply anomalous, it is unjustifiable, oppressive, and wrong, and ought to be remedied.

Now for the provisions of the bill. It provides that the persons of African descent before alluded to shall have all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, respectively, and in the annuities, moneys, and public domain claimed by or belonging to said nations, respectively. Is this wrong? The Choctaw and Chickasaw Nations are under treaty obligations to secure to these people the rights, privileges, and immunities of citizens, including the right of suffrage. They ought to have done so long since. Their failure to do so is a great wrong and a great injustice, which should be speedily corrected.

But ought these people to have an equal right in the annuities and public domain of the Choctaw and Chickasaw Nations? Let us see. The present annuity-fund of these nations amounts to about one hundred dollars *per capita*. The United States, by the treaty aforesaid, secured to these persons of African descent, under certain conditions, one hundred dollars *per capita*, and this is about what the three hundred thousand dollars amount to.

By the second section of the bill objected to, this three hundred thousand dollars is to be invested and paid in trust for the use and benefit of the Choctaw and Chickasaw Nations, so that these persons of African descent will bring to the trust-fund of said nations a sum *per capita* equal to the amount *per capita* of the present annuity trust-fund of these nations.

This, it seems to me, answers satisfactorily the objection to this bill, so far as it relates to the rights of the Africans in the annuity-funds of the Choctaw and Chickasaw Nations.

But the bill also gives to these Africans an equal right in the public domain claimed by said nations. Is this wrong? Lands are not held in severalty by these nations; they are held in *common*. The treaty contemplated making the Africans citizens, with equal rights and privileges with the Choctaws and Chickasaws, and upon this principle, in justice and equity, the common property of the nation should belong as much to the Africans made citizens as to the native-born citizens of said nations.

The argument against this provision, drawn from a pretended analogy between this case and the case of the liberated slaves of the United States, does not rest upon a solid foundation. The liberated slaves of the United States did not become entitled to the property held by individual citizens of the United States in severalty; but to so much of the public domain and other property of the United States as was not the separate property of individuals, these liberated slaves, when they became citizens, did become entitled to equal rights and privileges as other American citizens.

If you look at the manner in which the Choctaw and Chickasaw Nations acquired their property, and if you consider that the improvements made thereon have been made by the labor of the African people in as large, if not a larger, proportion than by the labor of the native Choctaws and Chickasaws, you will see that there is not any injustice in giving to these persons of African descent, made free and made citizens, equal rights in all respects with the native Choctaw and Chickasaw people.

A failure to pass this bill will leave the treaty of 1866 unexecuted; will continue the Africans among the Choctaws and Chickasaws in their present unjust and disastrous situation; will preserve the strife, animosity, and disturbance incident to these relations, and, therefore, I cannot too earnestly or too urgently recommend the passage of the bill referred to, or some equivalent measure, during the present session of Congress.

I beg your careful and attentive consideration of this subject, and hope you will bring it before such of your colleagues as feel an interest in the welfare of these people, and that if you concur with me in this opinion you will endeavor to procure the passage of the measure referred to immediately.

I have the honor to be, very respectfully, your obedient servant,

C. DELANO, *Secretary.*

HON. WILLIAM A. BUCKINGHAM,

*Chairman Committee on Indian Affairs, United States Senate.*