

IN THE SENATE OF THE UNITED STATES.

JULY 28, 1854.—Ordered to be printed, and that 5,000 additional copies, with the bill, be printed in pamphlet form for the use of the Indian Department.

Mr. JOHNSON made the following

REPORT

[To accompany Bill S. 483.]

*The Committee on Territories, to whom was referred the bill to establish and organize the Territories of Cha-lah-kee, Muscogee, and Cha-ta, having had the same under consideration, report :*

That they have carefully weighed and considered the bill in question, and have made such alterations and amendments therein, including a change in the name of one of the proposed Territories, as in their judgment were necessary and proper, and they do now recommend its passage.

In order more fully to extend the protection of the Constitution and laws of the United States over the Cherokee, Muscogee or Creek, Seminole, Choctaw, and Chickasaw nations or tribes of Indians, and to enable them to advance in civilization, and hereafter become citizens of the United States, the bill, as amended, provides for the erection (with the assent of these several nations) into Territories of the country which they own and occupy, and certain other country to be annexed thereto. The Territory of Chah-ta is to consist entirely of the lands owned by absolute grant from the United States by the Choctaws and Chickasaws. That of Muscogee, of those owned by the Creeks and Seminoles, and that of Chelokee of those owned by the Cherokees south of the thirty-seventh parallel of north latitude, and the lands west of the same to the one hundredth parallel of west longitude; and also of the tract of country bounded on the south by the northern line of Texas, on the north by the thirty-seventh parallel of north latitude, on the east by the one hundredth, and on the west by the one hundred and third parallel of west longitude; of the narrow strip of country belonging to the Osages, between the north line of the Cherokee lands and the thirty-seventh parallel of north latitude, and of the small tracts west of Missouri owned by the Senecas, the united bands of the Senecas and Shawnees, and the Gaupaws, if these small tribes consent.

It vests the executive power in a governor for each Territory, to be elected by the people, serve for four years, be commissioned by the President, and supercede the principal or highest chief of each nation; gives each Territory a secretary, to be appointed by the governor, a district court of the United States, to be held by one judge, a marshal

and attorney, and a delegate to the House of Representatives. It provides that nothing contained in it shall be so construed as to abrogate, change, alter, or impair the constitution or laws, or the customs or usages having the force of law, of either of said nations of Indians, or to annul or interfere with their legislative bodies or judicial tribunals; or to lessen or curtail the power and jurisdiction of either; or to change the qualifications of voters, or in any way to interfere with their municipal affairs, or the mode of enforcing their laws or the judgments of their courts. It guarantees to them the right to their lands, and their power to dispose of them as they please; retain them as national property, or divide them among their citizens; and provides that they shall not be compelled to admit any person to citizenship, except by their own free consent evidenced by law.

The legislative authority is to continue to be vested, as at present, in the national council of the Cherokees, which consists of a national committee, hereafter to be called the House of Representatives and a council, in the general council of the Choctaws and Chickasaws, now composed of a Senate and House of Representatives; and in the general council of the Creeks, now a single body, or a council and House of Representatives, to be organized under a law enacted by the general council. All laws hereafter enacted are required to be written, and proportional representation is secured to the Chickasaws and Seminoles.

The governors, secretaries, district judges, marshals, attorneys, and interpreters are to be paid by the United States. The members of each legislature are to be paid three dollars a day and three dollars for every twenty miles travel, the presiding officers two additional dollars a day, the chief clerk of each house four dollars a day, the assistant clerk and interpreter three dollars each, and the doorkeeper two dollars a day. But only one session in every two years is to be paid for, and that for twenty days only; and the council or senate is to be paid for sixteen members and the house of representatives for twenty-six members only. The Creek legislature receives no pay until the legislative power is vested in two bodies.

Each legislature fixes the qualifications of voters. Power is given each to prevent and punish settlements or trespasses, by white men or Indians, on the lands owned by the respective nations; and white men settling on such lands obtain no right to vote or hold office except by virtue of a law of the Territory. White men settling on that part of the Chelokee Territory which is not owned by the Indians in that Territory are to have the right to vote and hold office, but can have no voice in regard to the lands of the different nations or tribes nor obtain any share or interest in such lands.

The laws of Arkansas in regard to offences amounting to felony are applied to these Territories, and also the criminal laws of the United States contained in the intercourse laws and elsewhere. Offences under these laws are to be tried in the district courts, but this jurisdiction does not extend to offences committed by one Indian on the person or property of another Indian of the same Territory; and the laws enacted especially for the District of Columbia are not to be in force there. \* No grand juries are to be empannelled, but prosecutions are to

be commenced by information or presentment by the district attorney; and he has the power of summoning and examining witnesses.

The district courts are also to have jurisdiction in civil suits instituted by the United States; and between citizens of a State or another Territory, or aliens, and citizens or residents of the Territory in which the court is held, where the matter in controversy is of greater value than \$500, and arises after the act becomes in force. All the proceedings are to be had and recorded in the English language: all free male citizens are competent jurors if competent by the general rules of law, preference being given to those who can understand and speak the English language.

The courts are to be held at the seats of government, which are fixed at Tah-le-quah, the Creek agency, and Doaksville. The common law of England is enacted as to matters within the jurisdiction of the district courts, with the statutes of Arkansas of a general nature, in and of, or modifying, or adding to, the common law and the English statutes prior to the fourth year of James the first, except as to the law merchant and commercial paper and fraudulent conveyances, as to which the law of New York is adopted. This provision applies only where there is no express statutory provision. Bills of exception, appeals, and writs of error are allowed to the Supreme Court under certain restrictions, particularly in all cases involving the question of title to slaves, and in cases on writs of habeas corpus involving the question of personal freedom. The fugitive slave laws are declared in force in these Territories. The governors' salaries are fixed at \$2,000, those of the secretaries at \$1,500, that of the district judge for Chelokee and Muscogee at \$2,500, and that of the district judge for Chah-ta at \$2,000. Ten thousand dollars are appropriated and granted to each Territory to erect public buildings, and fifty thousand dollars to purchase the strip of land owned by the Osages, and to negotiate with the Shawnees, Senecas, and Shawnees and Quapaws.

By section 35, it is enacted "That all the free citizens of the said several nations, to wit: the Cherokees, Creeks, Seminoles, Choc-taws, and Chickasaws resident, or hereafter moving into and settling in said Territories, being of Indian or Indian and white blood, shall, when this act takes effect as to each nation, respectively, become, and be, citizens of the United States; and the Constitution of the United States shall have the same force and effect within the said Territories as elsewhere within the United States."

The President is to negotiate with the Osages for the extinguishment of their title to the narrow strip of country between the 37th parallel of north latitude and the northern line of the Cherokee country; which when obtained, is to be the property of the Cherokees. Reservations are provided for all the Osages settled or having reservations there, and desiring to remain; and they are to become part of the Cherokees. Provision is made that the Senecas, Senecas and Shawnees, and Quapaws may be incorporated in the Territory, and become an integral part of the Cherokee people, and citizens of the United States.

On the request of the legislature of either of the Territories, the President is authorized to cause the lands in such Territory belonging to the Indians to be surveyed. In that event, it is provided that the legis-

lature shall devote sections sixteen and thirty-six in each township to the support of common schools, and seventy-two sections to that of a college.

Each legislature is required to enact laws regulating the institution of marriage, making it a contract for life, not dissoluble at the pleasure of the parties, prohibiting polygamy, and providing that divorces shall only be granted by judicial power for causes previously defined by a general law.

Careful provision is made that nothing in the act shall be held to release the United States from paying any moneys or furnishing any supplies which they are bound by treaty to pay or furnish to these tribes or individuals; and that no claims against the United States are to be forfeited or affected by their assent to the act.

Their assent is to be evidenced by act of their present legislative authorities, on receipt of which, from either Territory, the President is to issue his proclamation directing the organization of such Territory, and declaring the act in force as to it; and so on as to each. Two thousand copies of the act are to be printed in the Choctaw, two thousand in the Cherokee, and two thousand in the Creek language, and distributed among these Indians, and their assent is not to be given until after the expiration of six months from the passage of the act. Whenever the people of the three Territories agree, one Territory is to be created out of all, and called Νεοση, which may afterwards become a State, when Congress is satisfied as to their capacity for self-government, and they open their country for emigration and settlement.

Such is a brief abstract of this important bill. The substance of its main features is, that it leaves the laws, legislation, rights of property in the soil, judicial tribunals, and modes of exercise of the legislative power of these Indian nations untouched; turns their principal chief into a governor elected by the people, and commissioned by the President; gives them a district court and a delegate in Congress; pays to a limited extent the expenses of the executive and the legislative departments, and makes the inhabitants of these nations citizens of the United States, entitled to the protection of the Constitution.

The country proposed to be erected into the Territory of Chelokee, consists: first, of the land conveyed by patent to the Cherokee nation in pursuance of the treaties of May 6, 1828, and February 14, 1833, being 7,000,000 acres, or 10,937 square miles. By these treaties, and that of December 29, 1835, the United States guaranteed "to the Cherokee nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extends." This territory, therefore, is to consist: second, of the lands west of said seven millions of acres to the one hundredth parallel of west longitude, between the Creek line on the south and an extension of the northern Cherokee line on the north, containing 9,375 square miles, or 6,000,000 acres; third, of the parallelogram included between the northern line of Texas on the south, the thirty-seventh parallel of north latitude on the north, and the one hundredth and one hundred and third parallels of west longitude, on the

east and west, containing 5,759 square miles, or 3,686,760 acres. The 800,000 acres west of Missouri, belonging to the Cherokees, are not included. The bill also proposes to purchase from the Osages the strip of land south of the thirty-seventh parallel of north latitude, and between that parallel and the Cherokee and Quapaw lands, westwardly to the one hundredth parallel of west longitude, containing 11,686 square miles, or 7,479,040 acres, and to transfer it to the Cherokees; and it also provides for the incorporation into the Territory, with their assent, of the Senecas, the mixed bands of Senecas and Shawnees, and the Quapaws, with their lands, lying between Missouri and the Cherokees, and belonging to them, respectively, in fee simple. These lands contain 348½ square miles, or 223,000 acres. Without these small tribes the Territory of Chelokee will contain 37,757 square miles, or 24,165,800 acres of land; with them 38,105 square miles, or 24,388,800 acres. The western half of this contains but little arable land.

The population of the Cherokee nation is now about ——— souls.

The country proposed to be erected into the Territory of Muscogee consists exclusively of that granted in fee simple to the Creeks, in pursuance of the treaty of February 14, 1833, and prior treaties with that nation. It contains 20,531 square miles, or 13,140,000 acres, and is now in part occupied by the Seminoles, who form a constituent part of the Creek nation. The population of the Creeks is about ——— souls; of the Seminoles, about 2,500.

The country proposed to be erected into the Territory of Chah-ta, is that granted in fee simple to the Choctaws, in pursuance of the treaty of September 27–28, 1830, containing 23,437 square miles, or 15,000,000 acres. The Chickasaws form a constituent part of the Choctaw nation. The population of the Choctaws is about 27,300 souls; that of the Chickasaws, according to the last census, 4,709.

This bill has no political, party, or sectional features, but is intended solely as a measure of justice to a brave and intelligent, but oppressed and unfortunate, race. It is meant to place something to the credit of this government against the long array of injuries done the red man with which our annals are running over.

By the celebrated ordinance of 1787, it was declared:

“That *the utmost good faith* should always be observed towards the Indians; that their lands and property should never be taken from them without their consent; that in their property, rights, and liberty they never should be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity should, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them.”

But, notwithstanding these noble and benevolent provisions—notwithstanding that the civilization of the Indians was an object close to the heart of Washington and his immediate successors, the policy of this government, as was said by a committee of the House of Representatives, on the 21st of February, 1823, “has been at war with its own professions. The Indian is called by the endearing name of brother, and he is told that we are religiously bound, by the most sacred injunction, to do unto others as we would that others should do unto us, at

the same time we exclude them from any participation in the benefits of our civil and social institutions. We treat the whole race as if they were not the descendants of Adam." Over and over again, in the most solemn manner, we have guarantied to nation after nation such of its lands as remained to it, after we had cajoled or forced it into a cession; and, as often, after the lapse of a few short years, has the wave of white population again overtaken the same hapless people, forcing it ever westward, and by new negotiations, new appliances of money, and presents to corrupt and greedy chiefs, and new threats of leaving them to the tender mercies of State sovereignty, another and another cession of land has been extorted, until the last grave of their fathers was included in the field of a stranger.

The history of our intercourse with the Indians contains too many things which we cannot help but regret, and which call loudly upon us for atonement and remuneration. Too often have treaties, upon the letter of which our government has sternly and mercilessly insisted, been made by a few chiefs only, not authorized to cede the lands of the nation. It has been rare, indeed, that for any such reason we have relinquished our grasp on their fields and hunting grounds. In one instance we took millions of acres by a naked confiscation from our Indian friends and allies, at the close of a war waged against them and ourselves, and in which they had fought bravely by the side of our troops in every battle; and we have ever afterwards turned a deaf ear to their humble prayers for compensation.

No doubt the injuries done the red man have often been born of an inexorable necessity—the necessity of progress and expansion. With us, as with all other growing nations, might has often been right, and necessity has justified oppression. It has too often been tacitly considered—as, indeed, it hath been on behalf of a sovereign State gravely argued—that treaties between a civilized and a barbarous nation do not bind the former to as strict an observance of entire good faith and honor, as those to which civilized communities only are parties.

We will not enter upon the recital of the wrongs done the original proprietors of this continent, or even the once powerful and populous nations, for the remnants of which this bill is intended to provide. It is sufficient to say that, once undisputed owners of the lands now forming the States of North and South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and part of Virginia, they have been forced to recede before our determined and resistless advance, until driven over the Mississippi, they have found a resting place far to the westward, with a State of this Union lying between them and the great river. The Choctaws and Chickasaws have always boasted, and with truth, that they have never shed the blood of a white man; but as long as peaceful opposition was effectual, they clung desperately to the lands on which they were born, and where the sky and the woods were familiar to them. The Cherokees, the Creeks, and the Seminoles fought for their country, against hope, with a courage that needed no success to ennoble it. Anxious to propitiate us, and hoping that gratitude might for once overpower self-interest, the Cherokees, Creeks, Choctaws, and Chickasaws have often enlisted as our auxiliaries, and

fought for us with constancy and courage. Their blood, shed in our cause, has stained every Indian battle ground in the southwest.

But they found all efforts unavailing. They have yielded to the stern decree of destiny, and engaged in a new struggle, in which we can be their allies against the barbarism and ignorance of a nomadic life. They now study the arts of peace. They are rapidly advancing in education, enlightenment, morality, and the science of self-government; and in these efforts this bill proposes to give them aid.

The leading principle of the bill is, that nothing is proposed to be done in reference to these Indians without their own consent. The question of authority and power over them is waived. In the opinion of the committee, it is wise not to seek to *impose* a particular form of government upon them. The relations that exist between the government of the United States and those of the red race, who have no other interest in the soil than a mere usufruct, are not the same as those existing between it and those of that race who hold their lands in fee simple by patent, grant, or treaty. It might be an interesting question to inquire what power Congress had to make regulations for tracts of country which are *not* Territory of the United States. It is at least clear that whatever is to be done for the people now in question, is to be done by persuasion and not by force. It is not proposed to impose upon them new laws, or a new system of municipal government. The constitution and laws of a people, to have any actual vitality and force, must be the result of the necessities and fixed habits of acting and thinking of that people. All law that is worthy to be called law, and that is heartily and sincerely obeyed as law, is but the distinctly expressed opinion of the particular people by, or for whom, it is enacted. We cannot civilize a people by giving them good laws, no matter how wisely enacted; but to be effectual, those laws must be the result and product of their own civilization. They are the fruit—civilization is the tree.

The first question suggested to the committee in regard to this bill was, what were its object and purpose, and whether that object and that purpose were right, just, proper, and creditable to the nation. The next was, whether the provisions of the bill were calculated to attain them.

We imagine that no one can mistake the duty of the government of the United States in regard to these Indian tribes. The national honor is too deeply involved to admit of any misunderstanding upon that point. Humanity, mercy, justice, a regard for the opinion of Christendom and of our own posterity, unerringly indicate our duty in this respect. No man will be so bold as to deny that it is our duty to protect and save, to the utmost extent of our power, these fragments of once mighty nations, which have, almost unaided, done so much for themselves, and whose destruction would be a national dishonor.

While our sympathies are profusely poured forth for every people that writhes under the iron heel of the oppressor—while we are ready to offer material aid to every nation that struggles to be free—while we cheer on the Hungarian and the Italian to do battle with the rulers who deny them the free exercise of the common rights of humanity, we ought not to forget that we have in our midst organized communities of

men, born as free and independent as ourselves, to whom despotism and a foreign yoke is as hateful as it would be to us, who have framed for themselves free institutions and laws comparing favorably with our own; who have their courts of justice, their legislative bodies, their institutions of learning, and whom yet we hold in vassalage; to whom we deny the protection of the Constitution of the United States; the privilege of suing in our courts; the right of testifying in any case in which a white man is concerned. Why should the Hungarian, the Italian, the Cuban, receive more of our sympathy than those who were the original owners of this broad continent; who struggled bravely for their rights and their possessions as long, and longer, than the struggle was availing, and who now lie prostrate and mute before our feet, imploring us to save them from entire annihilation?

The great object of the bill is to do this act of duty and justice. No one who has any regard for the faith and honor of the nation, no one who believes that the iniquities of a people, as well as those of individuals, draw after them punishment and disaster as a necessary result and consequence, can have failed to note with alarm and concern, that it has already been announced by those holding high places in the councils of the nation, that the most solemn treaties, pledging the national faith—the most solemn grants, conveying absolute title—the most formal promises that the Indians west of the Mississippi shall never be included in any State or Territory, nor the laws of any State or Territory be extended over them, are to be but like threads of flax in the fire, before the irresistible onward rush of native and foreign emigration. The conclusion that the Indians must be destroyed and annihilated, to make room for us to expand in, no matter what solemn obligations may be violated thereby, is as coolly announced, as if the Indians were not made like us in the image of the Creator; as if those could expect His mercy, who, themselves, show none to the weak and unprotected.

This clearly indicates that it is absolutely indispensable for some new system to be adopted in regard to those of our Indian tribes that have made some advance in civilization. That these tribes cannot long exist as isolated and independent communities has become obvious. When the stronger has coveted the possessions of the weaker, it has never been difficult, in any age of the world, to find a pretext for rapine and robbery. The history of the wars between the white and red men is written by the former. The encroachments, the wrongs, the outrages, which, committed on the frontier, have often goaded the savage to resistance and desperation, are not chronicled by the pens, held by white fingers, that write the annals of Indian wars.

The object, therefore, now to be attained, is to persuade these Indians to open their country to emigration and settlement—to cease to hold their lands in common—to divide them out in severalty, giving to all their people the right of free sale and disposition—to intermingle with, and become an integral part of, the people of the United States—to merge their useless nationalities in that of the American republic, and to look forward with confidence to the time when they will constitute a portion of the Union, and add another star to its flag. This, and this alone, will preserve them, and such a result will be the highest eulogy



that history can pronounce upon free government. It will demand and deserve the admiration of the world.

This bill invites the people for whom it provides to open their country to settlement and emigration, leaving it for them to determine when and how it will be proper to do so. Knowing how sensitive they are, and ought to be, upon this subject—knowing how they dread an influx of white men, speedily to outnumber them, and to dash them against the eastern slopes of the Rocky mountains, unless their rights are so guarantied and secured that they cannot be invaded—the bill has wisely provided that their absolute right to their lands shall not be interfered with—that it shall be for them alone to say who shall settle on their lands, and who shall be citizens and voters in their territories—that their laws shall continue in full force—that they may punish intruders upon their lands—that they may hold them in common, or have them surveyed and divide them out, as they may see fit. We well know that the Indian feeling is *timeo danaos et dona ferentes*, for they have had little cause to put trust in promises or professions. Their wounds are yet too fresh. They shrink instinctively when our finger approaches them. They do not need to go back into past centuries to find examples of puny faith.

But it is to be hoped that, when they see us in earnest; when they find that justice, mercy, a generous liberality and a jealous regard for our national honor really outweigh our hankering for more land; when they are made citizens of the United States, and the broad shield of the Constitution is extended over them; when our courts are open to them, and they have a standing there; when their voices can be heard on the floor of the House of Representatives, to make known their wrongs and demand justice; when railroads reach their borders, and their magnificent lands become too valuable for their common people longer to let them lie idle and uncultivated as common property, then they will naturally, controlled, as the whole human race is controlled, by self-interest, divide out those lands, and allow them to be sold, and emigration to come within their borders. The day for overreaching them will then be over. Schools, academies, and colleges well endowed and prosperous, will fit their youth to perform the duties and share the honors of American citizens, and the great problem as to their fate and future will be solved.

The provisions of the bill have been carefully framed for the attainment of this object. In no degree interfering with the *quantity* of the executive power, it proposes to the Indians to vest it in a governor for each Territory, elected by themselves and commissioned by the President—the only change being in the person, the name of the office, and the source of the commission. By authorising the super-addition of certain powers under the government of the United States, and paying them salaries from the national treasury, sufficient is done to make these officers regard themselves, by degrees, as officers of the United States, and frequent elections will soon remove the last vestige of the oligarchical system of chieftainship—perhaps the greatest obstacle to Indian advancement—and so far go to change their ancient usages and customs.

The legislative power in each nation is to remain as at present. The Cherokees, and the Choctaws and Chickasaws having already legisla-

tures, composed of two branches, regularly organized under a written constitution, it is proposed that the expenses of those legislatures shall be paid by the United States for a limited number of days and members; and, to induce the Creeks and Seminoles to adopt our system of government, it is proposed that such payment shall be made in their case when, and not until, they substitute a legislature, with two branches, for their present general councils composed of all the chiefs and warriors.

To the same end, it is provided that all laws hereafter enacted shall be written; that in selecting jurors, preference shall be given to those who can speak the English language; and that the proceedings of the district courts shall be had and recorded in the same; the effect of which provisions will be to induce the youth of those nations to acquire a knowledge of our language, in order to be fully competent to exercise all the rights of freemen.

The bill declares all the Indians within the Territories so to be organized to be citizens of the United States, and extends over them the protection of the Constitution and laws of the United States. We are aware that this may at first blush seem hasty and premature: but a moment's reflection will convince any one that it is the indispensable first step, if the country occupied by them is to be erected into one or more Territories, either now or hereafter. No white man can settle upon their lands without their consent; and it cannot be imagined that a race so intelligent and shrewd as they, will ever give such consent, in order that they may again among them see a population superior in rights to themselves, assuming the reins of government, creating a State, extending new laws over them, disposing of their lands, revenues, and funds at their pleasure, and at the same time denying them all civil rights and privileges. They are not likely to invite white men to come among them and be their masters.

We have already, by treaty, annexed to ourselves and made citizens of the United States thousands of persons, in New Mexico and California, of pure or mixed Indian blood. The nations provided for by this bill are as intelligent and as capable of self-government as they, to say the least. They will not come among *us*, citizens though they may be, to settle and reside: and we shall not be compelled to go among *them*. They will have no vote in our national affairs, no voice in the deliberations of any State. Their citizenship will benefit them and injure no one. They will unhesitatingly refuse their assent to this bill, unless they are made citizens of the United States. They ought to do so. Nothing less than this will satisfy or assure them that they will not again be driven westward or exterminated, if they open their country to emigration, or accept any bill giving them the form or name of a Territory. Nothing else will convince them that they not only have rights, but that, possessing the *status* of American citizens, the courts will maintain and protect those rights to the amplest extent. It will be only when they are placed upon a footing of perfect equality, in every respect, with the white man, that they will no longer dread, and justly dread, his presence among them as the harbinger of evil and ruin.

To deserve this inestimable gift, the bill demands that, becoming

citizens of a Christian country, and protected by a Constitution made by and for a Christian people, they shall pass laws, if they have them not already, making marriage a contract for life, not dissoluble at the pleasure of the parties, but only by the judgment of a judicial tribunal, for causes previously declared by a general law. We thus tempt them to take a long step in the march of civilization.

To induce them to cease holding their lands in common, and divide them out in severalty, the bill offers to cause to be surveyed, at the expense of the United States, the lands belonging to these tribes, whenever, and not until, they desire and request it. They possess a country not inferior in fertility and beauty to any portion of the United States. That of the Cherokees is as rich and beautiful, as well watered and healthy, as the finest portions of Iowa and Wisconsin; as lovely in its prairie scenery as the choicest parts of Texas. Nor is there any more desirable country than that owned by the Choctaws, and part of that owned by the Creeks. Let railroads run to the border of this country, as it lies there with its vast extent of arable land untilled, and its great mineral treasures undeveloped, and every Indian within it is wealthy, with the surplus of his interest in the national lands, over and above what he needs for himself. Let them be but familiarized for a time with the ballot-box, and taught to read our language, and the poor will demand their share of the lands, and of that share will sell the superfluity.

But, whenever this is done, the bill provides that the interests of education shall not be neglected. It requires two sections in every township to be devoted to the maintenance of schools and academies, and seventy-two sections in each Territory to the support of a college. The legislatures may increase, but cannot diminish, this ample provision.

By giving each Territory a delegate in Congress, we enable these nations hereafter to be heard by this government, in regard to their just claims upon it. Heretofore, while we have taken no pains to look up, and but little to look into their claims, we have discredited the persons they have employed, and endeavored to render the character of an agent or attorney of an Indian tribe odious and disreputable; as if these people were not quite as competent to employ an agent as to give away their lands to us for a song. Rendering the compensation of all agents uncertain, we compel them to exact, or at least justify them in exacting an exorbitant contingent return for their services. Our departments tell the Indians that they will not recognize any agent they may employ, because the government employs agents for them, to reside among them whose duty it is to present and press their claims; and in the same breath, they refuse to order on these agents to attend to claims pending before Congress. It is time that they should have representatives identified in interest with themselves, and responsible to them, clothed with official authority to compel an attentive hearing from Congress and the departments, and paid for their services by the honor of the station conferred upon them, and not by a per-centage upon the just claims of an unfortunate people.

By the seventh article of the treaty of December 29, 1835, with the Cherokees, it was stipulated that they should be entitled to a delegate

in the House of Representatives of the United States, whenever Congress should make provision for the same. By the treaty of the 27th September, 1830, the Choctaws "expressed a solicitude that they might have the privilege of a delegate on the floor of the House of Representatives extended to them." The commissioners did not feel that they could, by a treaty stipulation, accede to this request; but presented it in the treaty, that Congress might consider and decide on the application. To that application, and to the positive promise contained in the treaty with the Cherokees, this bill responds.

The committee entertain no doubt of the propriety of extending to these Indians the privileges for which the bill provides. They entertain no doubt of their capacity to advance in civilization. It has been said that the hopes of those who desire to protect and preserve the Indians must prove fallacious; that he can no more be tamed than the grouse or partridge; and that his inexorable fate is to melt away and disappear entirely before the white man. Such is not the opinion of the committee. They think with the Secretary of War of the first President, that this opinion "is probably more convenient than just." He was right in thinking "that the civilization of the Indians would be an operation of complicated difficulty. That it would require the highest knowledge of the human character, and a steady perseverance in a wise system for a series of years, cannot be doubted. But to deny, that under a course of favorable circumstances it could not be accomplished, is to suppose the human character under the influence of such stubborn habits as to be incapable of melioration or change—a supposition entirely contradicted by the progress of society from the barbarous ages to its present degree of perfection."

Of course, to make these people in all respects as civilized as ourselves is to be a work of time. No great or good result in nature is produced otherwise. Even the oak does not grow in a moment. All that we can do is to make a beginning, to offer all reasonable inducements in our power, to use all fair and just appliances, and leave the result to Him who shapes the destinies of nations. We need not go for encouragement to the Picts, and Scots, and naked Britons, in the time of Cæsar; for scarcely a hundred years have elapsed since the Highland warrior was quite as rude and tameless as the Creek or the Seminole.

Facts, under our own eyes and of no doubtful character, prove, beyond any question, that to civilize the Indian is not impracticable. We have only to examine the constitution, the laws, the schools, the social habits of three of the nations provided for by this bill, to see that the red man, with the same opportunities, is quite as competent to lead a settled life, and to make and enforce good and wholesome laws, as we ourselves.

The Cherokees have been in the habit of enacting written laws since the year 1808. In 1827 they adopted a written constitution; and in 1839 another, with very slight variations, was adopted by the united Eastern and Western Cherokees. The Choctaws adopted a regular constitution in 1850. The Cherokee constitution was framed "in order to establish justice, insure tranquility, promote the common welfare, and secure to ourselves and our posterity the blessings of freedom."

It divides the powers of government into three departments. The legislative power is vested in a national council, composed of two branches—a national committee and a council—the members of which are elected by all free male citizens over the age of eighteen years. The national council meets annually, and its powers and modes of proceeding are the same as those of the legislatures of our States. The executive power is vested in a principal chief, elected by the qualified voters, and serving four years. He must be a native born citizen, and twenty-five years of age. He has the power of vetoing laws, but two-thirds of each branch may pass them notwithstanding his veto. There is an assistant principal chief; and the principal chief himself is assisted also by an executive council of five members.

The judicial power is vested in supreme, circuit and inferior courts. The judges of the supreme and circuit courts are elected by the national council, and serve for five years. The constitution provides that persons accused shall have the right of being heard; of demanding the nature and cause of the accusation; of meeting the witnesses face to face, and of having compulsory process to compel their attendance. In all prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage is secured, and the accused cannot be compelled to give evidence against himself. The ordinary provisions in our State constitutions in regard to unreasonable seizures and searches, and search warrants, are incorporated into this constitution. No person can, for the same offence, be twice put in jeopardy of life or limb; nor can property be taken and applied to public use without a just and fair compensation.

No person who denies the being of a God, or a future state of reward and punishment, can hold office. The free exercise of religious worship and serving God without distinction is guaranteed to all. The right of trial by jury is declared inviolate, and all persons for injury sustained in person, property, or reputation, have remedy by due course of law; and the 9th section of the 6th article is in these words: "Religion, morality, and knowledge being necessary to good government, the preservation of liberty and the happiness of mankind, schools, and the means of education shall forever be encouraged in this nation."

The declaration of rights of the Choctaw constitution declares that "All freemen, when they form a social compact, are equal in rights, and no man or set of men are entitled to exclusive separate public emoluments or privileges, but in consideration of public services; that there shall be no establishment of religion by law, no preference given to any sect, society, denomination, or mode of worship, and no religious test allowed as a qualification for public trust; that no human authority can control or interfere with the rights of conscience; that no person shall, for the same offence, be twice put in jeopardy of life or limb, nor shall any person's property be taken or applied to any public use, unless just compensation be made therefor."

No title of nobility or hereditary distinction, privileges, honor or emoluments, can ever be granted or conferred; nor can any office be created, the appointment to which shall be for a longer time than dur-

ing good behavior. The press is to be free; the people secure against searches and general warrants; freemen to be punished only by the judgment of their peers or the law of the land. Persons accused have the same rights as are guaranteed by the Cherokee constitution. All penalties are to be reasonable; the citizens have the right of petition, address, and remonstrance; and no retrospective law, or law impairing the obligation of contracts, can be enacted.

The powers of government are divided into three distinct departments. The legislative power is vested in a general council, consisting of a senate and house of representatives, the former consisting of sixteen senators, chosen by the qualified electors—four in each of the four districts—for two years. The house is composed of members chosen every year by the qualified electors in each district, in the ratio of one representative for every thousand citizens. Every bill passed must be presented to the chiefs or their speakers. If they sign it, it becomes a law; if not, they return it with their objections, and it then becomes a law if re-passed by two-thirds of both branches. The general council meets every year, and the provisions in regard to its powers and modes of proceeding are like those in our State constitutions in regard to the legislature.

The executive power is vested in four chiefs, one for each district, any two of whom are sufficient to exercise the duties of the executive at the general council. The chiefs and their speakers are elected by the people, and serve for four years. They jointly give the general council information of the state of the government, and recommend measures for their consideration. They take care that the laws are faithfully executed, may convene the general council on extraordinary occasions, and adjourn it in case of a disagreement between the two houses.

The judicial power is vested in a supreme national court, circuit court, and county courts. The judges of the supreme and circuit courts are elected by the national council. The former are four in number, one from each district have appellate jurisdiction only, and hold their offices four years. The circuit judges hold their offices two years. They receive a regular compensation fixed by law, and not to be diminished during the time for which they are elected; and no fees or perquisites.

All free male citizens over eighteen years of age, and having been citizens five months, are qualified voters. All general elections are holden by ballot. The general council can raise a revenue for the support of schools, but for no other purpose. No person who denies the being of a God, or a state of future rewards and punishments, can hold any office, or be allowed to testify in any court.

Such is the mode of government of these two nations. The Creeks are not so far advanced, but their form of government is democratic, their chiefs elective, and their laws are just and equal, and they have recently appointed a committee of thirty to prepare a constitution and code of laws.

All these tribes have now become a settled people engaged in agriculture. The Christian religion is the religion of them all. That many of them are indolent is owing in part to the system of holding their

lands in common, which represses energy, and withholds the greatest of all incentives to industry, the hope of accumulating landed estate, and in part to their habit of relying for support on their annuities. It is to be hoped that, when these territories are established, arrangements will be made, by amicable negotiation, by which all their annuities will be commuted, and fair amounts paid the different nations in money instead.

The Cherokees have an alphabet of their own, invented by a native-born Cherokee, consisting of eighty-six characters. The newspaper and official journal at Tah-le-quah is printed partly in Cherokee and partly in English.

The traveller is as safe in the country inhabited by these nations as in any State east of the Mississippi, looks with surprise upon comfortable houses and smiling fields, and wonders that he sees no more sign of barbarism on the western than on the eastern side of the Indian line.

The Cherokee agent says, in his report of the 13th September, 1853: "The common people are making slow but steady advances in the science of agriculture. The more enlightened and intelligent portion, who have means, live much in the same style of the southern gentleman of easy circumstances. Many of the dwellings of that class are large, comfortable, and handsome buildings. Their fields, too, are well enclosed with good rail fences, and their yards and gardens are handsomely paled in, and the grounds tastefully laid off and ornamented with rare and beautiful shrubbery." One of the presiding elders of the Methodist church says, on the 8th of September, 1853: "This closes my nineteenth year among the Indians as a missionary, and in point of education, morality, and agriculture, they (the Cherokees,) are improving as fast, perhaps, as any other nation."

There are, in the Cherokee nation, five missionary stations under the care of the American Board of Commissioners for Foreign Missions, the churches at which contain, together, some 190 or 200 members, and the schools at the same, some eighty or more pupils. The statistics of these churches and schools, for 1853, are imperfectly reported. There are seven Methodist missions, with 1,520 church members, eighteen ministers, of whom six are white men and twelve native Cherokees, and six sabbath schools with 137 scholars. There are public schools, at which the superintendent reports, for the year prior to September, 1853, 950 scholars, including 110 orphans, residing in good families, and properly cared for. At Tahlequah and Flint there are Masonic lodges.

The agent of the Creek says: "I was gratified, on my arrival in the Creek nation, to find that harmony and good feeling prevailed among the chiefs themselves, and between them and the other people of the nation, and that they had advanced in civilization and moral culture far beyond any thing I had reason to anticipate from my knowledge of them previous to their removal to the west. It is gratifying to observe the progress of the Creeks in the industrial pursuits of life; the chase has been entirely abandoned as a means of livelihood, and the cultivation of the soil, and the raising of stock as its substitute, prosecuted with laudable energy. There is abundance of provisions in the country to supply the wants of the nation."

There are in the Creek nation three Presbyterian manual labor schools, having together 143 scholars; a female school with about 100 scholars; and several government neighborhood schools, having, as far as reported, 230 scholars. Three hundred members of the Methodist church are reported. There are native female teachers and native young men studying under the care of the Presbytery for the gospel ministry. There is a national temperance society; the "Maine law" was in force there before it was adopted in Maine, and strenuous exertions are made to enforce it.

The agent of the Chickasaws says "the crops this year are very beautiful in all sections of the country, besides a large quantity of last year's crop of corn being on hand. They (the Chickasaws) are entirely an agricultural people, and inclined to industrious habits. They are a proud people, and desire to be like their white brethren in arts and occupations; and every encouragement should be given them by their guardian, the United States government." Besides the government manual labor school, the Chickasaws have schools of their own.

The agent of the Choctaws states that most of them are engaged in agriculture; that they are peaceable and easily governed, and have ever been noted for their attachment and loyalty to the United States. The cause of Christianity is steadily progressive among them. The capacity of the children for learning he thinks "fully equal to the standard among the whites." The Choctaws enacted the "Maine law" more than twenty years ago, and have sustained it ever since. Many of the people wear clothing of their own manufacture. Public roads are worked, and bridges made in all directions.

There are nine seminaries in the Choctaw nation, supported, in part, by sums secured by treaties for educational purposes; in part by the interest arising from the Chickasaw fund invested under a compact between the Choctaws and Chickasaws; and in part by contributions from missionary societies. The aggregate amount appropriated by the nation to these seminaries is \$26,000. There are in them about 500 students, at an average cost, including board, lodging, and clothing, of about \$60 per annum.

There are also over thirty common neighborhood schools, at which about two thousand scholars are taught reading, writing, and arithmetic in Choctaw and English.

The language of the Choctaws was reduced to writing by the Rev. Alfred Wright, who translated and published some sixty books and tracts in that language, besides the new testament and six books of the old. A very large number of the Choctaws are members of the church, but the statistics of the churches are not furnished. In five churches reported there are five hundred and thirty members.

The Neosho Indian agent reports the Senecas as an agricultural people, enlarging their cultivation, living in comfortable houses, and having good outbuildings, and the Senecas and Shawnees as a still more industrious and pleasant people, many of them very industrious, and with farms that will compare well with many in New York and Ohio. All these Indians make an abundance of provisions and raise much stock. The Quapaws are a harmless and inoffensive but indolent people; some of them have good farms, and they have made ar-



rangements to have their children educated at the Osage manual labor school.

It is useless to say that a people who, in the face of so many disadvantages, have made such advances in civilization and the science of government, are untameable and unfit to become citizens of the United States. It may very seriously be doubted whether a community of ancient Britons or Saxon serfs exposed to the same treatment, oppressed and persecuted, denied the rights and privileges of citizens, driven again and again from their homes, diminished in numbers, degraded and discouraged, would have made greater progress in the same length of time than these Indians have done.

It is evident that the bill proposes a radical change in our policy towards these particular tribes. It is time such a change should take place. We have solemnly stipulated with the Choctaws and Chickasaws that they shall have the jurisdiction and government of all persons and property within their limits, so that no State or Territory shall ever have the right to pass laws for their government; that no part of the land granted them shall ever be embraced in any Territory or State; and that they shall be forever secure against all laws except those passed by their own national councils, not inconsistent with the Constitution, treaties, and laws of the United States, and except such as have been enacted by Congress to the extent that they are required under the Constitution to exercise legislation over Indian affairs. We have made, in substance, the same stipulations with the Cherokees and Creeks. Their lands cannot be included within the limits of any State or Territory, or their right to be governed by their own laws taken from them. These are the provisions of solemn treaties—a part of the supreme law of the land. They are not to be violated without national disgrace and dishonor.

In addition to these stipulations it is well known that these different nations have at present, and will continue to have, so long as they remain in their present condition, insuperable objections to uniting with each other in any form of government. The plan of an alliance, or confederation, was suggested, in 1831, by the Secretary of War; but it has never found any favor with the Indians, nor will it ever, unless under the operation of this bill. It is utterly impracticable, at present, to establish *any* single territorial government to include them all; and to include them in a Territory to be inhabited by white men, would be an open and shameless violation of the most sacred and solemn treaty stipulations.

In the meantime it is written that the white race must advance. They have trespassed and settled on Indian lands heretofore, in defiance of acts of Congress and proclamations, at the risk of war and of their lives; and they will do so again. This bill offers the only means at all plausible, of opening this valuable country to our people, and, at the same time, of preserving unstained the national faith and honor, and saving from ultimate destruction these brave and unfortunate tribes.

If it should fail in these great objects, we, at least, shall have done our duty; and the sin of broken treaties, and violated national faith, will not rest upon our heads. These Indians are in our hands. God

has placed them in our care. It is us who shall be called on to account for them. The system which the bill proposes will entail some expense upon the treasury. But we may say to that, as was said by General Knox, that a system of coercion and oppression would probably amount, in the end, to a far larger sum of money; and it is certain that the blood and injustice which would stain the character of the nation would be beyond all pecuniary calculation.

The committee entertain a sanguine belief that the ultimate results of the bill will be all that the friends of the Indians desire, and all that the dictates of humanity, the interests of our own people, and the principles of justice, good faith, and honor demand; and they, therefore, again recommend its passage.

R. W. JOHNSON,  
*Of Committee on Territories.*

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A BILL to establish and organize the Territories of Chel-o-kee, Muscogee, and Chah-ta.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in order more fully to extend the protection of the Constitution and laws of the United States over the Cherokee, Muscogee or Creek, Seminole, Choctaw, and Chickasaw tribes or nations of Indians, and to enable them to advance in civilization and hereafter become citizens of the United States, all that portion of country west of the States of Missouri and Arkansas, included within the following limits to wit: Beginning at a point on the old western territorial line of Arkansas Territory, being twenty-five miles north from the point where the said territorial line crosses the Arkansas river; thence running from said north point south with said territorial line to the point where it crosses the Verdigris river; thence down said Verdigris river to the Arkansas river; thence down said Arkansas river to a point where a stone was placed in the year eighteen hundred and thirty-three, opposite the east or lower bank of the Neosho or Grand river, at its junction with the Arkansas; thence running south forty-four degrees west, one mile; thence in a straight line to a point four miles northerly from the mouth of the north fork of the Canadian river; thence along the said four mile line to the Canadian river; thence down the Canadian river to the Arkansas river; thence down the Arkansas river to that point on the same where the eastern Choctaw boundary line strikes said river; thence running with the western boundary line of the State of Arkansas to the southwest corner of Missouri; thence along said western boundary line of Missouri to the lands assigned to the Senecas; thence on the south line of the Senecas to Grand river; thence up Grand river, to the southwest corner of the eight hundred thousand acres or neutral ground belonging to the Cherokees; thence with the southern boundary line of these lands to the western boundary line of Missouri; thence with said western boundary line of Missouri to the thirty-seventh parallel of north latitude; thence with that parallel of latitude to the one hundredth parallel of west longitude; thence with that parallel to where it crosses the northern line

of Texas; thence with that line to the one hundred and third parallel of west longitude; thence with that parallel of longitude to where it crosses the thirty-seventh parallel of north latitude; thence with that parallel of latitude to where it crosses the one hundredth parallel of west longitude; thence with said parallel of longitude to a point on the same due west from the place of beginning; and thence due east to the place of beginning, shall be, with the assent of the Cherokee nation of Indians, to be obtained in the manner hereinafter provided for, erected into a special and qualified Territory of the United States, to be called the Territory of Chel-o-kee. And all that portion of country south and west of said Territory of Chel-o-kee bounded on the north and east by said Territory of Chel-o-kee, on the south by the Canadian river, and on the west by the one hundredth parallel of west longitude, shall be, with the assent of the Muscogee or Creek and the Seminole tribes or nations of Indians, to be obtained in the manner hereinafter provided for, erected into a special and qualified Territory of the United States, to be called the Territory of Muscogee: And all that portion of country west of the State of Arkansas, bounded on the east by the State of Arkansas, on the north by the Territories of Chel-o-kee and Muscogee, on the west by the one hundredth parallel of west longitude, and on the south by Red river, shall be, with the assent of the Choctaw and Chickasaw tribes or nations of Indians, to be obtained in the manner hereinafter provided for, erected into a special and qualified Territory of the United States, to be called the Territory of Chah-ta.

SEC. 2. *And be it further enacted,* That nothing in this act contained shall be so construed as to abrogate, change, alter or impair the constitution or laws, or the customs or usages having the force of law, of either of said nations of Indians, or to annul or interfere with their legislative bodies or judicial tribunals, or to lessen or curtail the power and jurisdiction of either of such bodies or tribunals, or to change the qualifications of voters, or in any way to interfere with the municipal affairs of said nations or their mode of enforcing their laws, and the judgments, orders, and decrees of their courts and tribunals of justice, or in any way to interfere with, limit, or control their right to the lands heretofore conveyed and secured to them by treaty with, or patent or grant from, the United States, or their power to dispose of the same as they may please, to retain the same as national property, or to divide them among their citizens, or to compel them to admit to citizenship, except as hereinafter provided, any persons whomsoever, unless by their own free consent evidenced by law or other proper authority, or to make any other change in their present condition and their relations to the United States, except such as hereby specially enacted and provided.

SEC. 3. *And be it further enacted,* That, with the assent of said nations, the executive power and authority in and over each of said Territories shall be vested in a governor, who shall be elected by such free male citizens of said Territories, respectively, as by the laws of said nations are or may be qualified voters therein, in such manner, after the first election, as the legislative authority of each such Territory shall direct; the person having the highest number of votes being

elected, and if two or more have an equal and the highest number of votes, one of them being chosen by joint vote of the legislature. The qualifications for governor shall be such as are now required for principal or highest chief in said Cherokee, Creek and Choctaw nations, respectively, or such as shall hereafter be prescribed by the legislative power of said Territories respectively. Each governor elected shall be commissioned by the President of the United States, and take an oath to support the Constitution of the United States and the laws of the Territory for which he is elected, and to execute faithfully the duties of his office; and shall hold his office for four years from the day of his qualification, and until his successor shall be elected and qualified.

SEC. 4. *And be it further enacted,* That the first election for governor shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the supreme legislative power, or national or general council, of each of said Cherokee, Creek and Choctaw nations shall direct; and the returns of such elections shall be made to said respective councils or legislative bodies, who shall settle any contest as to such election, and themselves elect in case of a tie, and cause the result to be certified to the President of the United States, and deliver the certificate, in duplicate, one to the candidate elected, and one to the superintendent of Indian affairs west of Arkansas, for the time being, who shall forward it to the President.

SEC. 5. *And be it further enacted,* That the said governors shall reside within their respective Territories, and supersede the principal chiefs, or highest executive officers or chiefs of said several nations. They shall exercise such powers as are now, or may, before the organization of the respective Territories, be conferred by said Cherokee, Creek, and Choctaw nations upon their principal chiefs or highest executive officers, or as may afterwards be conferred upon them by the legislatures of their respective Territories. They shall be commanders-in-chief of the militia thereof, shall perform such duties as may from time to time be prescribed by act of Congress, and receive such compensation therefor as shall be fixed by law; may grant reprieves for offences against the laws of the United States, until the decision of the President can be made known therein; shall commission all chiefs, town chiefs, judges, sheriffs, and subordinate officers, who shall be appointed to office under the laws of their respective Territories; and shall take care that those laws, and the laws of the United States in force in such Territories, are faithfully executed.

SEC. 6. *And be it further enacted,* That there shall be a secretary of each of said Territories, who shall be appointed by each governor, immediately after his election and qualification, and commissioned by the President of the United States; and each such secretary shall reside in the Territory for which he is appointed, and hold his office for four years, and until his successor is appointed and qualified. He shall record and preserve all the laws and proceedings of the legislature of his Territory, and all the acts and proceedings of the governor in his executive department. He shall transmit two copies of the laws and journals of the legislature, within three months after the end of each session, and two copies of the executive proceedings and official corres-

pondence semi-annually, on the first days of April and October in each year, to the President of the United States; two copies of the laws to the President of the Senate, and two to the Speaker of the House of Representatives of the United States, for the use of Congress; two copies of the laws to the librarian of Congress, and two to the librarian of the Supreme Court. And in case of the death, removal, resignation, or absence from the Territory, of the governor, he shall be, and is hereby, authorized and required to execute and perform all the duties, and exercise all the powers of the governor, during such vacancies or absence, or until another governor shall be duly elected, commissioned, and qualified to fill such vacancy.

SEC. 7. *And be it further enacted*, That vacancies in the office of governor shall be filled by election by the people, in such manner as the legislature of each Territory shall direct, unless they happen within nine months of the next regular election, in which case no previous election shall be held, unless there be likewise a vacancy in the office of secretary. Elections to fill vacancies in the office of governor shall be ordered by the secretary, or, if his office be also vacant, then by the presiding officer of the single or highest branch of the legislature.

SEC. 8. *And be it further enacted*, That the legislative authority of said Territories shall continue to be vested, as at present, in the Chel-o-kee Territory, in the national council, composed of the national committee, to be hereafter called the House of Representatives, and of the council; in the Muscogee Territory, in the General Council, or in a House of Representatives and Council to be created hereafter by law enacted by said General Council; and in the Chah-ta Territory, in the General Council, composed of a Senate and House of Representatives, as the same are respectively at present constituted; there to be exercised in accordance with the constitutions, laws, usages and customs of said several nations; and the members of said bodies to be elected and qualified, and the said bodies to be constituted, organized, and governed as said respective constitutions, laws, usages, and customs now provide, until they themselves shall make provision to the contrary: *Provided, however*, That all laws hereafter enacted shall be written, and that the Chickasaws shall be represented in the legislature of the Territory of Chah-ta, and the Seminoles in that of Muscogee, in proportion to their numbers.

SEC. 9. *And be it further enacted*, That the first governor of each of said Territories shall, immediately after entering on the duties of his office, cause a census and enumeration of all persons in his Territory to be taken, by such persons, and in such mode, as he shall appoint and designate; and the persons so appointed shall receive a reasonable compensation therefor, to be fixed by the Secretary of the Interior.

SEC. 10. *And be it further enacted*, That the qualifications of voters, and those for holding office in said Territories, shall be fixed and determined by the legislatures of each; and no white man, settling in either of said Territories, on lands belonging to either of said Indian nations, shall be entitled to vote or hold office therein, unless in virtue of a general or special law of its legislature: *Provided*, That no nation or tribe, or part of a nation or tribe of Indians now within either of said Territo-

ries, with the consent of the nation or nations owning the lands, shall be disfranchised, or subjected to any other restrictions upon the right of voting and holding office, than such as apply to all other Indians within such Territory; and that all Indians of the Cherokee, Creek, Seminole, Choctaw, and Chickasaw races and tribes, being east of the Mississippi river, or elsewhere out of said Territories, shall, whenever they remove into and settle in said respective Territories, among their own people there residing, become citizens of said respective Territories, and integral portions of their own nations, upon the same footing with other individuals thereof, there residing at the time when this act takes effect as to such respective Territories, and with the same rights as they, in all respects whatsoever; but this shall not apply to such Indians as may come or settle within such Territory without the consent of the legislature thereof, and without being recognized as citizens thereof by law.

SEC. 11. *And be it further enacted*, That the legislative power of each of said Territories shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no tax shall be imposed on the property of the United States; nor shall the lands or other property of white men or non-residents be taxed higher than the lands or other property of resident Indian citizens.

SEC. 12. *And be it further enacted*, That, inasmuch as all the country by this act included in the Territories of Muscogee and Chah-ta belongs, respectively, to the Creek and Seminole and the Choctaw and Chickasaw nation of Indians; and as so much of the country hereby included in the Territory of Chel-o-kee as, under the treaties of eighteen hundred and twenty-eight and eighteen hundred thirty-three, was conveyed and assured to the Cherokee nation of Indians, being seven millions of acres, as described and bounded in said treaty of eighteen hundred and thirty-three, belongs to said Cherokee nation, with an outlet west as far as the sovereignty and right to the soil of the United States extends; the said nations owning said lands in fee simple; no white men, or other Indians, shall be allowed to settle or trespass on any of said lands, east of the one hundredth parallel of west longitude, without the consent of the legislature of the proper Territory, and in pursuance of laws by it enacted; and each such legislature may pass such laws as may seem to it good, for preventing and punishing such settlements and trespasses: *Provided*, That the trial for such offences shall be by jury, before a judicial tribunal, and that cruel and unusual punishments therefor shall not be inflicted. But in those portions of the said Territory of Chel-o-kee, not included in or forming a part of said seven millions of acres, or in the country west thereof, or any other country by this act to be taken and considered as part thereof, white men may settle and obtain pre-emption rights, as in other parts of the territory of the United States, whenever all other Indian title thereto is extinguished; and shall thereby become citizens of said Territory, and entitled to vote and hold office therein, if in other respects qualified under the laws of such Territory, except that they shall have no voice in regard to the disposition to be made of the lands of said Indians, nor any share or interest therein whatever.

SEC. 13. *And be it further enacted*, That, in order to secure the due enforcement of so much of the laws of the United States, in regard to criminal offences and misdemeanors, and to civil remedies, as is or may be in force in said Territories, each of said Territories is hereby erected into and constituted a judicial district of the United States, for the special purposes and jurisdiction hereinafter provided; and the jurisdiction of each court hereinafter created shall be co-extensive with the limits of the Territory for which it is created.

SEC. 14. *And be it further enacted*, That in each of said districts there is hereby created, and shall hereafter be held, semi-annually, a district court of the United States, with jurisdiction in such matters, civil and criminal, to such extent, and between such parties, as is hereinafter provided.

SEC. 15. *And be it further enacted*, That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, the following officers, that is to say: one judge of the district courts of the United States for the Chel-o-kee and Muscogee districts, and one judge of the district court of the United States for the Chah-ta district; each of whom shall hold his office for the term of six years, unless sooner removed by the President of the United States, and until his successor is appointed and qualified; and one marshal for each of said districts, each of whom shall hold his office for four years, unless sooner removed.

SEC. 16. *And be it further enacted*, That the district judge for the Chel-o-kee and Muscogee districts, shall appoint a clerk and an interpreter for each of the district courts in which he presides; and the district judge of the Chah-ta district shall appoint a clerk and an interpreter for the district court of his district. Each of said clerks shall also be the register in chancery, shall hold his office during the pleasure of the judge of his court, shall keep his office at the place where the court is held, shall receive the same fees and compensation as are now allowed by law to the clerk of the district court for the western district of Arkansas, and shall be qualified in like manner and perform like duties as the clerks of other courts of the United States; each interpreter shall be employed during the pleasure of the court, and be paid three dollars a day for each day while so employed; and the marshals shall give bond, and be qualified like the marshals of the United States in other districts.

SEC. 17. *And be it further enacted*, That so much of the now existing laws of the State of Arkansas as defines and fixes the punishment of offences, which, by such laws, amount to felony, and so far as not locally inapplicable, shall, after this act takes effect, be in force, as if hereby literally and specifically enacted, in each of said three Territories; as also so much of the laws of the United States as provides for the punishment of treason, robbery of the mail, and counterfeiting the coin or securities of the United States, and of violations of the neutrality laws of the United States; and so much of the laws of the United States as defines and provides for the punishment of crimes and offences against the laws, treaties, or authority of the United States, over which the courts of the United States have exclusive jurisdiction; and the various laws now in force regulating trade and intercourse with the Indian

tribes, and for maintaining peace upon the frontier, so far as they continue to be applicable under this act; and the several district courts aforesaid shall, respectively, have jurisdiction to try, condemn and punish offenders against any of such laws, to adjudge and pronounce sentence, and cause execution thereof to be done, in the same manner as is done in other circuit and district courts of the United States; to which end, circuit court jurisdiction is conferred on each of said courts, so far as it may be necessary to carry out the provisions and effect the object of this act.

SEC. 18. *And be it further enacted*, That the jurisdiction hereby created shall not extend to crimes or offences committed by one Indian against the person or property of another Indian of the same Territory; and that the laws in force only in and specially enacted for the District of Columbia shall not be in force in either of said Territories.

SEC. 19. *And be it further enacted*, That there shall be appointed by the President, with the advice and consent of the Senate, an attorney for each of said Territories, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President; and who shall receive the same fees and salary as are now allowed to the attorney of the United States for the present Territory of Utah. The several marshals of said Territories shall be entitled to the same fees as are now allowed to the marshal for the present Territory of Utah; and each such marshal shall also, in addition, be paid two hundred dollars annually, as a compensation of extra services.

SEC. 20. *And be it further enacted*, That in all criminal trials in said district courts, and in all suits therein at common law, the right of trial by jury shall remain inviolate; but prosecutions for all offences hereby made cognizable in said district courts shall be commenced by presentment or information of the district attorney; and no grand juries shall be empaneled in such courts; and power is hereby given such district attorneys to cause process to issue for witnesses, prior to presentment or information; and to administer oaths to and examine the same; and such witnesses shall prove their attendance in the same manner, and receive the same compensation, as witnesses summoned to testify before grand juries in the district court of the United States for the western district of Arkansas.

SEC. 21. *And be it further enacted*, That each of said district courts shall have jurisdiction in all civil suits instituted by the United States against persons, whether white men or Indians, residing within its district; and in all civil suits at law and in equity, where the matter in controversy is of greater value than five hundred dollars, between citizens of any State of the United States, or of any Territory other than that wherein the suit is brought, or aliens and citizens of the Territory wherein the suit is brought, or persons residing therein, upon contracts made by, or rights of action accruing against, the persons so sued, in each such district court, respectively, after the time when this act becomes in force as to such districts, respectively; but upon no other contracts, or rights, or causes of action whatever; in which suits the same practice shall govern, the same proceedings be had in all respects, before and after judgment or decree, and the same costs be adjudged, and in the same manner collected, as now in the district court of the United States for the



western district of Arkansas; and the forms of all original and mesne process shall be the same as are now used in that court.

SEC. 22. *And be it further enacted*, That all the proceedings in said courts shall be had and recorded in the English language; and no person shall be competent to serve as a juror who is not a citizen of the district; that all citizens of the district, being free males and over the age of twenty-one years, if competent by the general rules of law, shall be competent to serve as jurors, preference being given to those who can speak and understand the English language; that the practice in all criminal cases therein, including the right of challenge of jurors, shall be the same as in the district court of the United States for the western district of Arkansas; and that, within the sphere of its jurisdiction hereby defined, each of said courts shall be invested with the same powers as said district court as the western district of Arkansas; its proceedings shall have the same validity as those of that court, and shall be authenticated in the same mode, and have the like faith and credit everywhere.

SEC. 23. *And be it further enacted*, That the terms of said district court for the district of Chel-o-kee shall be holden on the first Mondays of March and September; those of said district court for said district of Muscogee, on the first Mondays of May and November; and those of said district court for the district of Chah-ta, on the first Mondays of April and October; and that said court in the district of Chel-o-kee shall be holden in the town of Tah-le-quah, that in the district of Muscogee at the Creek agency, and that in the district of Chah-ta at Doaksville.

SEC. 24. *And be it further enacted*, That all existing provisions of law relating to the powers, duties, or modes of proceeding and action of the circuit and district courts of the United States, of a general nature, not locally inapplicable, and not contrary to the provisions of this act, shall extend and apply to said district courts; that their judgments and decrees shall have the same effect as those of such other courts, and sales of property thereunder shall be made and evidenced, and title thereby pass, in the same manner as under judgments and decrees of said district court for the western district of Arkansas.

SEC. 25. *And be it further enacted*, That the common law of England, and the statutes of England, of a general nature, prior to the fourth year of James the First, and the statutes of the State of Arkansas now in force, of a general nature, in aid of, and modifying, or adding to, the common law and statutes of England, shall govern in said districts, in all matters of contract, within the civil jurisdiction of said district courts, where no provision to the contrary is, or may be made by express statute; except so far as said statutes of Arkansas and the decision of the courts interpreting the same have made innovations on the law merchant and the law as to commercial paper; as to which, and as to fraudulent conveyances, sales and transfers, the present law of the State of New York shall be in force in said districts, in all cases within the cognizance of said district courts.

SEC. 26. *And be it further enacted*, That whenever any person is convicted of any offence, in either of said district courts, the punishment or part of the punishment whereof is imprisonment, by the law now

existing, the said punishment or part of the punishment shall be confinement and imprisonment with hard labor, for the same length of time; and it shall be lawful for the court by which the sentence is passed, to order the same to be executed in any State prison or penitentiary within the State of Arkansas, the use of which may be allowed by the legislature of such State for such purposes; and the expenses attendant upon the execution of such sentence shall be paid by the United States.

SEC. 27. *And be it further enacted*, That the district courts shall take no jurisdiction of any offence committed prior to the day when, by a proclamation of the President of the United States, this act shall be declared in force within their respective districts, as hereinafter provided; but offences committed prior to such time, shall be punished according to the laws now in force, in the court now having jurisdiction.

SEC. 28. *And be it further enacted*, That bills of exception, writs of error, and appeals from the decisions of each of said district courts, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from other district courts of the United States having circuit court jurisdiction, where the value of the property or the amount in controversy, to be ascertained by the oath of either party, or of any other competent witness, shall exceed one thousand dollars; but in cases involving the question of title to slaves, such writs of error or appeals shall be allowed to and decided by the said Supreme Court, without regard to the value of the matter, property or title, in controversy; and from any decision of either of said courts or the judge of either, upon any writ of habeas corpus, involving a question of personal freedom, a writ of error or appeal shall be allowed to said Supreme Court.

SEC. 29. *And be it further enacted*, That nothing herein contained shall be construed to apply to or affect the provisions of the "act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty; and the provisions of those acts are hereby declared to extend to and be in full force within the three Territories hereby created.

SEC. 30. *And be it further enacted*, That the secretary of each of said Territories shall take the same official oath or affirmation as is hereinbefore prescribed for the governor; and the district judges, attorneys, and marshals shall take an oath or affirmation that they will support the Constitution of the United States, and faithfully discharge the duties of their respective offices; which oaths may be administered by any judge of the United States, or of a State or Territory, or any commissioner of the United States, or justice of the peace, authorized to administer oaths by the laws of any State or Territory of the United States; and when so taken, shall be certified by the person before whom they are taken, and be forwarded to the secretary, who shall receive and record them among the executive proceedings.

SEC. 31. *And be it further enacted*, That the governor shall receive an annual salary of two thousand dollars, in full for all his services under this act; the secretary shall receive an annual salary of fifteen

hundred dollars ; the district judge for the disticts of Chel-o-kee and Muscogee shall receive an annual salary of twenty-five hundred dollars ; and the district judge for the district of Chah-ta shall receive an annual salary of two thousand dollars ; all of which salaries shall be paid quarterly, from the dates of the respective commissions, at the treasury of the United States ; but no such payment shall be made until the officer shall have entered upon the duties of his office. There shall also be appropriated, annually, the sum of fifteen hundred dollars, to be expended by the governor to defray the contingent expenses of each Territory, including the salary of a clerk and interpreter in the executive department of each.

SEC. 32. *And be it further enacted*, That the members of the council and house of representatives of the Territory of Chel-o-kee ; those of the senate and house of representatives of the Territory of Chah-ta ; and those of the council and house of representatives of the Territory of Muscogee, (whenever, by act of the general council of the Muscogee nation or Territory, such council and house of representatives shall be organized and the legislative power of the Territory be vested in them,) shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, for not more than twenty days at each session ; and three dollars each for every twenty miles' travel in going to and returning from the said sessions, calculated according to the nearest usually travelled land-route ; and an extra allowance of two dollars per day, for the same length of time, shall be paid to the presiding officer of each body, for each day on which he shall preside. A chief clerk, an assistant clerk, an interpreter, and a door-keeper may be chosen for each house ; and the chief clerk shall receive, for the same length of time, four dollars per day, the assistant clerk and interpreter, each, three dollars per day, and the doorkeeper two dollars per day, during the session of not more than twenty days ; but no others officers shall be paid by the United States : *Provided*, That each senate or council shall be paid for no more than sixteen members, if the number of members of such body is larger than sixteen ; and each house of representatives shall be paid for no more than twenty-six members, if the number of members of such body is larger than twenty-six ; the whole amount of compensation for members of each body being, in case of such excess, apportioned equally among the whole number of its members : *And provided*, That but one session of each legislature shall be so paid for in every two years ; unless on an extraordinary occasion, the governor shall think proper to call it together.

SEC. 33. *And be it further enacted*, That there shall be appropriated, biennially, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislature of each Territory, the printing of the laws, and other incidental expenses ; and the governor and secretary of each Territory shall, in the disbursement of all moneys entrusted to them, be governed entirely by the instructions of the Secretary of the Treasury of the United States ; and shall, semi-annually, account to the said secretary for the manner in which such moneys shall have been expended ; and no expenditure shall be made, out of such funds, by either of said

legislatures, for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 34. *And be it further enacted*, That, until other provision shall be made by law, the seat of government of said Territory of Chel-okee shall be at Tah-le-quah, that of said Territory of Muscogee at the Creek agency, and that of said Territory of Chah-ta, at Doaksville, at which places, respectively, the sessions of the legislatures shall be held, and at or near which the respective governors and secretaries shall reside. And the sum of ten thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appropriated and granted to each of said Territories, to be therein applied, by the respective governors, to the erection of suitable buildings for the accommodation of the legislature and of said district court and its officers, and the officers of the executive department.

SEC. 35. *And be it further enacted*, That all the free citizens of the said several nations, to wit: the Cherokees, Creeks, Seminoles, Choc-taws and Chickasaws, resident, or hereafter coming into and settling in said Territories, being of Indian, or Indian and white blood, shall when this act takes effect as to each nation, respectively, become and be citizens of the United States; and the Constitution of the United States shall have the same force and effect within the said Territories as elsewhere within the United States.

SEC. 36. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected for each of said Territories, by the qualified voters thereof, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 37. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for each of said Territories, who, by virtue of the provisions of any law now existing, or which may hereafter be enacted, are or may be required to give security for moneys that may be entrusted to them for disbursement, shall give such security, at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 38. *And be it further enacted*, That the President of the United States shall be, and he hereby is, authorized to enter into negotiation with the Osage tribe, or great and little Osage bands of Indians, for the purpose of extinguishing the title of said tribe or bands to the strip of country lying between the thirty-seventh parallel of north latitude and the northern line of the country heretofore granted and conveyed to the Cherokees; which narrow tract of country, when purchased from them, shall vest in and belong to the said Cherokee nation of In-

dians, in the same manner as the seven millions of acres originally granted and conveyed to them, and as if it had originally been an integral portion of said seven millions of acres: *Provided, however,* That if any persons belonging to said Osage tribe or bands are settled upon, or have reservations upon said strip of land, and do not desire to remove therefrom, their reservations, or a tract of six hundred and forty acres of land to each head of a family, widow, or man over twenty-one years of age, to be surveyed by direction of the President, shall be reserved out of such grant to the Cherokees, and vest in such individuals in fee simple forever; and all persons belonging to said Osage tribe or bands, who shall so choose to remain in said strip of country, south of the thirty-seventh parallel of north latitude, shall thereby become citizens of said Territory, and be incorporated on an equal footing in all respects whatsoever with said Cherokees.

SEC. 39. *And be it further enacted,* That if the Senecas, Senecas and Shawnees, Quapaws, and any other Indian people or tribe, west of the State of Missouri, south of the thirty-seventh parallel of north latitude, and east of said Territory of Chel-o-kee, as hereinbefore defined, shall desire to do so, and shall in due form and through their proper authority express their assent, they shall become and be incorporated with the Chel-o-kee Territory, and with said Cherokee people, as an integral portion thereof, on an equal footing with the Cherokees in all respects whatever; and the lands now owned and occupied by them shall in that event be included in and form part of said Territory; but each such people shall remain sole owner of its lands, and retain its individuality as to all funds and property belonging to it; being in other respects merged in said Cherokees, and becoming citizens of the United States and of said Territory, entitled to vote and to hold office, and subject to all the provisions of this act and to the laws of said Territory.

SEC. 40. *And be it further enacted,* That the President of the United States shall be, and he is hereby, authorized to enter into negotiation with said small tribes, for the purpose of procuring their assent so to become merged in and form a part of said Cherokees, and of causing the necessary enactments for that purpose to be made, or the necessary agreements entered into; and for the purpose of carrying into effect the provisions of this section and of section thirty-eight, the sum of fifty thousand dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated.

SEC. 41. *And be it further enacted,* That whenever the legislature of either of said Territories shall, by resolution, request it to be done, the President of the United States shall be, and he is hereby, authorized to cause the whole, or any particular portion of the lands, belonging to said Indians in such Territory, to be surveyed, as the public lands of the United States are surveyed; and to that end to appoint a surveyor general for said Territories, by and with the advice and consent of the Senate, with power to him to select and appoint the necessary clerks, deputy surveyors and other operatives; whose respective compensations shall be such as are now paid to the surveyor general for Arkansas, and to the clerks, deputy surveyors and operatives under him.

SEC. 42. *And be it further enacted,* That whenever said lands are surveyed, sections numbered sixteen and thirty-six in each township

shall be reserved, by act of the legislature, to constitute a fund for the support of common schools and academies in the respective Territories; and the legislature of each of said Territories shall also set apart seventy-two sections of land for the support and maintenance of one collegiate institution; and the legislature shall be in all future time the sole judge how the residue of such lands shall be disposed of.

SEC. 43. *And be it further enacted*, That each of said legislatures shall be, and is hereby, required to enact proper laws regulating the institution of marriage, making it a contract for life, not dissoluble at the pleasure of the parties, prohibiting polygamy, and providing that divorces shall only be granted by judicial power, for causes previously defined by a general law.

SEC. 44. *And be it further enacted*, That the official acts of all judicial officers in each of said Territories shall have the same effect, and be entitled to the like faith and credit everywhere, as the like acts of judicial officers of the same grade and jurisdiction in any other Territory of the United States; and the proceedings of the courts and tribunals of each of said Territories shall be authenticated like similar proceedings of other courts in the Territories of the United States, and be entitled to the like faith and credit.

SEC. 45. *And be it further enacted*, That so soon as said small tribes, mentioned in the thirty-ninth section, shall become incorporated with said Cherokees, the office of agent for such small tribes shall be abolished; but the several agencies for said other tribes and nations, and the superintendency of Indian affairs south, at Fort Smith, in Arkansas, shall be continued, until the President of the United States may deem it proper and expedient to discontinue the same, and transfer the duties thereof to the several governors of said Territories, or cause them to be otherwise performed.

SEC. 46. *And be it further enacted*, That nothing in this act contained shall be so construed as to release the United States from the payment of any annuities, or payments of any kind, to any of said Indian nations or tribes, or any individuals thereof, or the furnishing of any supplies to which the United States are bound by treaty stipulations; or to impair the rights of any of said nations or tribes, or any individuals thereof, to claim and insist upon the full and exact performance of all such treaty stipulations, and of all contracts and agreements with them, on the part of the United States, contained in any treaties made with any of said nations or tribes; or to impair any treaty stipulations with any of said nations, in behalf of the United States, in regard to military posts, reservations and post roads therein; for all which purposes the individuality of each of said nations shall continue and remain unimpaired; nor shall either of said nations or tribes, or any individuals of either, by assenting to this act, forfeit any just or equitable claims they may have against the United States, on any account or for any cause whatever.

SEC. 47. *And be it further enacted*, That the assent of the said several Indian nations to the provisions of this act shall be evidenced, if given, by an act or law enacted by the national council of the Cherokees, the general council of the Creeks and Seminoles, and the general council of the Choctaws and Chickasaws, respectively, according to the estab-

lished forms and modes of legislation of those nations ; which laws shall not be enacted until after the expiration of the term of six months from the date of the passage of this act ; authenticated copies of each of which acts shall be transmitted to the President of the United States, the signatures of the principal or head chiefs of each of said nations being sufficient authentication. And, to the end that the people of said nations may have ample information as to the provisions of this act, two thousand copies of the same shall be printed in the Cherokee language, two thousand in the Choctaw language, and two thousand in the Creek language, if practicable, under the direction of the Commissioner of Indian Affairs, and forwarded to the agents for said respective nations, whose duty it shall be to cause the same to be distributed among the people of said different tribes or nations, at as early a day as practicable ; and the sum of two thousand dollars is hereby appropriated, out of any money in the Treasury of the United States unappropriated, to pay the expenses of translating and printing the same, to be paid to the persons employed, upon the order of the Commissioner of Indian Affairs.

SEC. 48. *And be it further enacted,* That whenever the people of the said three Territories shall, by acts of their respective legislatures, consent to unite together and form one people, and be included in one Territory, they shall be entitled to be erected into a Territory of the United States, to be called the Territory of Neosho, in the same manner as other Territories have been created ; and afterwards, when Congress shall be satisfied as to their capacity for self-government, and whenever they open their country to emigration and settlement, they shall be entitled to be erected into a State, by the same name, on the same footing, in all respects, as the original States.

SEC. 49. *And be it further enacted,* That, so soon as the President of the United States shall receive such official information as is hereinbefore provided for, of the assent of said nations, in any one of said Territories, to the provisions of this act, he shall issue his proclamation making known such assent, and directing the organization of such Territory ; and shall pursue the same course in regard to each of said Territories, the assent of the nations in which shall be afterwards so made known to him, until all are organized ; and such of the provisions of this act, in regard to said respective Territories, as are to await such assent before being in force and operative, shall be in force, as to the proper Territory, from the date of such proclamation.