

REMONSTRANCE

OF

THE SEMINOLE AND CREEK DELEGATES

AGAINST

The passage of Senate bill No. 107, to enable Indians to become citizens of the United States.

JANUARY 14, 1878.—Ordered to lie on the table and be printed.

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

The undersigned delegates, representing the Seminole and the Creek nations of Indians, respectfully present their remonstrance against the enactment of any law interfering with the internal affairs of Indian tribes by making any members of a tribe who are within its jurisdiction citizens of the United States without the full and free consent of such tribe, expressed by and through its proper legislative authority. And they desire specially to call attention to the bill No. 107, now before the Senate, "to enable Indians to become citizens of the United States."

For the purpose specified in the title, further legislation is not needed, as any Indian can become a citizen of the United States under existing laws by simply withdrawing from his tribal organization and living under the jurisdiction of any State or Territory. The moment he pays a poll-tax as a resident, making his home under such jurisdiction outside of his tribe, he ceases to belong to the class of "Indians not taxed," and becomes a citizen of the United States, as defined by section 1992 of the Revised Statutes, which says that "All persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States."

But the object of Senate bill No. 107 is apparently to enable members of any tribe to become citizens while still residing on its soil, and to exempt them from the jurisdiction inside of which they retain their homes. To such an enactment there are serious objections.

In the first place it would violate existing treaties.

The 15th article of the treaty of 1856 secures to the Creeks and Seminoles "the unrestricted right of self-government, and full jurisdiction over persons and property within their respective limits." (Revis. Ind. Treat., 111.)

The treaties of 1866 with both Creeks and Seminoles reaffirm former treaty stipulations. (*Ib.*, 121, 817.)

The 7th article of the Seminole treaty of 1866 agrees to such legislation as may be necessary for the better administration of justice in the Indian Territory: "Provided said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs." (*Ib.*, 815.)

In the 2d article of the same treaty the United States required the Seminoles to give the freedmen among them all the rights of native citizens, and enacted the stipulation that "the laws of said nation shall be equally binding upon all persons, of whatever color, who may be adopted as citizens or members of said tribe." (*Ib.*, 812.)

The same provisions against interference with tribal organization, rights, laws, privileges, and customs, and also respecting the binding effect of their laws upon all persons of whatever color, are contained in the 2d and 10th articles of the Creek treaty of 1866. (*Ib.*, 116, 119.)

To make a member of a tribe independent of its control while living within its territorial limits, would to that extent destroy the full jurisdiction guaranteed in 1856, as well as the binding effect of its laws upon "all persons" who are citizens or members thereof, required by the treaty of 1866, and also violate the pledge in the same treaty of non-interference with "tribal organization, rights, laws, privileges, and customs."

Even if no treaty stipulations stood in the way, the presence among Indians of those of their own blood who have thrown off their allegiance and claimed the protection of an outside power, could not be other than a fruitful cause of discord, considered exclusively with reference to the rights of persons, and leaving out of view all questions of property.

But the bill goes farther. It directs that the Indian who, under its provisions, may be severed from his tribe, shall nevertheless retain his interest in whatever may "belong to his tribe or nation," and the amendments proposed in the Senate repeat the provisions enacted March 3, 1875 (18 Stat., 420), for the benefit of Indians securing homesteads, "that any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations," and any alienation or transfer of such share "shall be void."

To stretch the joint ownership of the common property beyond the limits of a tribe in pursuit of those who have ceased to be members thereof, as in the case of Indians securing homesteads, is bad enough. To sow the seeds of discord and strife inside of the tribe itself would be much worse. That is precisely the effect which Senate bill No. 107 would have if any Creek or Seminole were to avail himself of its provisions. The use and occupation of their soil by any one of their race who claimed to be part owner after severing his tribal connection would be looked upon by both Creeks and Seminoles as a blow at their title.

The 3d article of the treaty of 1833 provides for a patent in fee-simple "to the *Creek Nation* of Indians," and "the right thus guaranteed by the United States shall be continued to said tribe of Indians so long as they *shall exist as a nation* and continue to occupy the country." (7 Stat., 418; Revis. Ind. Trea., 103.)

The 3d article of the treaty with the Creeks and Seminoles of 1856 repeats the above guarantees both to the Creeks and the Seminoles, to whom a part of the Creek country had been assigned. (Revis. Ind. Trea. 106.)

The 3d article of the Creek treaty of 1866, after ceding the western half, provides that "the eastern half of said Creek lands being retained by them" shall be "forever set apart as a home for *said Creek Nation*." (*Ib.*, 116.)

The 3d article of the Seminole treaty of 1866 says, "The United States, having obtained by grant of the *Creek Nation* the westerly half of their lands, hereby grant to the *Seminole Nation* the portion thereof

hereafter described, which shall constitute the *national domain* of the Seminole Indians." (*Ib.*, 812.)

To give any one who is not a member of the Creek or of the Seminole Nation, land included in either of the grants referred to in the foregoing extracts, is a manifest violation of their letter and their spirit.

Moreover, if all the Creeks and Seminoles were to become citizens, the Creek Nation and the Seminole Nation would cease to exist and their national domain would revert to the United States.

The possibility of such national dissolution is proved by what has already happened in two instances wherein the tribal organization was dissolved by the act of the tribal authorities, in each case to the serious injury of the Indians thus made citizens by wholesale. In two others, complete disintegration was effected by the separate action of individual members. More than 2,000 Indians who were made citizens in Kansas, chiefly by railroad influence, after losing their property, have gone into the Indian Territory and endeavored to become reconstructed as Indian tribes.

In all but two or three out of a dozen different bands whose condition has been affected by the "citizenship" plan, the result has been a complete failure.

In only two instances has any step been taken towards disintegration by act of Congress without the consent of the tribe itself. In both cases material harm was done. In one of them, where the act was passed at the request, as it was supposed, of the whole body corporate, a majority afterwards remonstrated, but the mischief done required the interposition of two treaties and three subsequent acts before it could be remedied. The ill-feeling engendered still exists.

That the presence among us on our own soil of those of our blood who have disowned our government would be an element of discord no one can doubt; and obviously any attempt on the part of such individuals to claim any share of the funds belonging to the nation from whom they had separated would increase the irritation.

In view of these objections, the undersigned venture to express the conviction that Congress will not adopt any measure so mischievous in its tendency and so manifestly in violation of treaty stipulations and vested rights as that embraced in Senate bill No. 107.

Respectfully,

JOHN F. BROWN,
THOMAS CLOUD,
Seminole Delegates.

PLEASANT PORTER,
JNO. R. MOORE,
YARTE KER HARJO,
D. M. HODGE,
Creek Delegation.