

MEMORIAL

OF

DELEGATES AND AGENTS OF THE CHOCTAW AND
CHICKASAW NATIONS OF INDIANS,

REMONSTRATING

*Against the passage of Senate Bill No. 107, to enable Indians to become
citizens.*

DECEMBER 10, 1877.—Ordered to lie on the table and be printed.

*To the Senate and House of Representatives of the
United States of America in Congress assembled :*

The undersigned having considered the provisions of Senate bill No. 107, reported with amendments by Mr. Ingalls on the 14th of November, 1877, beg leave to submit the following statement :

By the eleventh article of the treaty of October 20, 1832, it is provided that the fund created by the sale of lands of the Chickasaws lying east of the Mississippi River, shall be invested by the United States "for the use and benefit of the whole Chickasaw Nation," and that "no part of said fund shall ever be used for any other purpose than the benefit of the whole Chickasaw Nation."

The first article of the treaty of June 22, 1855, contains the following provision : "The United States do hereby forever secure and guarantee the lands embraced within the said limits to the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common, so that each and every member of either tribe shall have an equal undivided interest in the whole."

The seventh article of the treaty of June 22, 1855, contains the following provision : "So far as may be compatible with the Constitution of the United States and the laws made in pursuance thereof regulating trade and intercourse with the Indian tribes, the Choctaws and Chickasaws shall be secured in the unrestricted right of self-government, and full jurisdiction over persons and property within their respective limits, excepting, however, all persons with their property, who are not by birth, adoption, or otherwise, citizens or members of either the Choctaw or Chickasaw tribe."

The seventh article of the treaty of April 28, 1866, is in the following words : "The Choctaws and Chickasaws agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory : *Provided, however,*

Such legislation shall not in anywise interfere with or annul their present tribal organization, or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs of the Choctaw and Chickasaw Nations respectively."

Article 38 of the treaty of April 28, 1866, is in the following words: "Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nation, or who has been adopted by the legislative authorities, is to be deemed a member of said Nation, and shall be subject to the laws of the Choctaw and Chickasaw Nations according to his domicile, and to prosecution and trial before their tribunals and to punishment according to their laws, in all respects as though he was a native Choctaw or Chickasaw."

Article 43 of the treaty of April 28, 1866, is in the following words: "The United States promise and agree that no white person, except officers, agents, and employes of the government, and of any internal-improvement company, or persons traveling through or temporarily sojourning in the said nations, or either of them, shall be permitted to go into said territory, unless formally incorporated and naturalized by the joint action of the authorities of both nations into one of the said nations of Choctaws and Chickasaws, according to their laws, customs, or usages; but this article is not to be construed to affect parties heretofore adopted, or to prevent the employment temporarily of white persons who are teachers, mechanics, or skilled in agriculture, or to prevent the legislative authorities of the respective nations from authorizing such works of internal improvement as they may deem essential to the welfare and prosperity of the community, or be taken to interfere with, or invalidate any action which has heretofore been had in this connection by either of the said nations."

The undersigned respectfully submit the following consideration as the grounds of their apprehension that the enactment of the provisions contained in Senate bill No. 107, as reported by Mr. Ingalls on the 14th of November, 1877, will result in violations of the foregoing treaty provisions:

We have no objection to the measure in so far as it permits citizens of our nations to become citizens of the United States, if upon such change of citizenship they leave our jurisdiction and surrender all rights growing out of and depending upon the tribal relation, retaining, however, all their separate property. But this bill expressly provides that after one of our citizens becomes a citizen of the United States he shall retain all his rights and interests in the lands, claims, annuities, funds, and other property of our nations or tribes. The result of these provisions is that after he ceases to be a citizen of the Choctaw or Chickasaw Nation, he retains every right which he had while he was a citizen.

In the first place, if he shall have been a citizen of the Chickasaw Nation, he will, after he throws off his citizenship, retain his interest in the fund raised by the sale of their lands east of the Mississippi River, which is now held in trust by the United States; and yet it is expressly provided in article 11 in the treaty of October 20, 1832, that that fund shall belong to the Chickasaw Nation. The proposed statute will therefore violate the treaty, and will confer upon citizens of the United States, who are not citizens of the Chickasaw Nation, a part of a large fund which the United States has covenanted shall be the property of the Chickasaw Nation. Certainly we could not be expected to consent that a treaty stipulation of such great importance to us should be annulled by an act of Congress.

In the next place, after one of our citizens throws off his citizenship,

he retains all his rights and interest in our lands. This seems to us to be a violation of the first article of the treaty of June 22, 1855, which guarantees our lands "to the members of the Choctaw and Chickasaw tribes." The proposed statute gives an interest in our lands to persons who are not members of our tribes.

But the provisions securing to those citizens of our tribes or nations, who throw off their citizenship and become citizens of the United States, all their rights and interests in our lands, secures to them the right to occupy lands within our country precisely as our citizens do. This, in opposition to the spirit of all our treaties, permits private persons who are not our citizens, and who do not hold office under the United States, to remain in our midst, and that, too, without being subject to our laws; for the seventh article of the treaty of June 22, 1855, above recited, exempts citizens of the United States resident among us from the jurisdiction of our governments. This provision of the proposed bill will, therefore, place in our midst a body of people who are not amenable to our laws, and will both directly and indirectly violate that provision of the treaty of April 28, 1866, which secures the Choctaws and Chickasaws against any legislation which shall "interfere with or annul their present tribal organization, or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs of the Choctaw or Chickasaw Nations respectively."

The undersigned humbly pray that if said bill shall be passed, it may be passed in such a form as not to violate the treaty stipulations above mentioned, and that it may be expressly provided therein that all citizens of the Choctaw and Chickasaw Nations, who may become citizens of the United States, shall thereupon retain all their private property, but shall lose all their rights and interest in the public property of those nations respectively, and shall have no right thereafter to reside within the limits of said nations without the consent of the legislatures thereof, nor without being subject to their jurisdiction and laws.

B. F. OVERTON,

Governor of the Chickasaw Nation.

JOSIAH BROWN,

J. E. ANDERSON,

Delegates of the Chickasaw Nation.

P. P. PITCHLYNN,

D. F. HARKINS,

On behalf of the Choctaw Nation.