

L E T T E R

FROM THE

SECRETARY OF THE INTERIOR.

COMMUNICATING,

In answer to a Senate resolution of April 17, 1878, information in relation to the decisions of that department upon the rights of Indians to impose taxes in the Indian Territory.

MAY 10, 1878.—Referred to the Committee on Territories and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, May 9, 1878.

SIR: I have the honor to acknowledge the receipt of a resolution adopted in the Senate of the United States, under date of the 17th ultimo, in the following words:

Resolved, That the Secretary of the Interior be, and he hereby is, directed to furnish the Senate with copies of any and all decisions of that department relative to the right of the Indians to impose taxes in the Indian Territory, and also copies of any and all papers on file in the department relating to the so-called permit law.

In accordance with the direction contained in said resolution, I transmit herewith a copy of a letter addressed by this department, under date of September 16, 1874, to the Commissioner upon the subject of tax upon cattle driven through the Cherokee country;

Copy of a letter dated the 18th April, 1876, by the department to F. A. Sears, esq., attorney for the Missouri, Kansas and Texas Railroad Company, in relation to tax attempted to be levied upon the said road by the authorities of the Choctaw Nation;

Copy of letter, dated the 6th instant, from the Commissioner of Indian Affairs, together with the copies of papers noted therein.

The papers herewith transmitted are copies of all papers known to be on file or of record in the department upon the subjects noted in the resolution of the Senate.

Very respectfully,

C. SCHURZ,
Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
Washington, September 16, 1874.

SIR: I have had under consideration the various communications from your office in relation to the tax of 10 cents per head, levied by the

Cherokee Indian authorities, upon all cattle driven from Texas through their Territory to the Northern States, and have reached the conclusion that such a tax is reasonable and justifiable, and that the nation should be sustained in its efforts to enforce and collect the same.

I cannot better express my views on this subject than by adopting the report of the Committee on Indian Affairs in the Senate, made June 22, 1874, which is in these words:

The Committee on Indian Affairs to whom was referred sundry petitions of certain citizens of the State of Kansas, remonstrating against the imposition by the Cherokee Nation of a tax upon cattle driven through their Territory from Texas to northern markets, have considered the subject very carefully, and beg leave to make the following report:

Petitioners allege that the Cherokees, in general council, passed, on the 16th December, 1867, an act or order levying a tax of 10 cents per head upon all cattle and animals driven through their country from Texas to the Northern States; and that by another act passed on the 22d of November, 1869, in relation to the said tax it was in some instances doubled, both of which acts or orders in council they charge are in violation of the laws of the United States.

Copies of the acts or orders in council complained of are not accessible to the committee, but the principal chief and delegation of the Cherokee Nation, in a written statement, in answer to the allegations of petitioners, admit substantially the levies as charged, and proceed to justify the legality of the tax.

As a general proposition, it is quite clear that no community, politically or otherwise organized, whether State, Territorial, or Indian tribes, can legally deny or obstruct, by tax or otherwise, the free transit, whether of person or merchandise, to and from market over any part of the territory of the United States. But the exercise of the right must be enjoyed subject to the local laws and usage legally established in respect to the public highways, the rights of property, and the safety and well being of the inhabitants.

The statement of the chief above referred to sets forth that the States of Missouri and Kansas forbid the driving of Texas cattle into those States from the 1st of May to the last of November; that is, in the months that there is grazing in either of those States; that thousands and tens of thousands of Texas cattle are driven north across the Indian country each year, and being unable to enter Missouri and Kansas are herded and grazed several months in the Cherokee Nation and other parts of the Indian country; that when winter comes on such droves as are late, or too thin for market, find their tax of 10 cents per head and 5 cents per week so much cheaper than cattle can be kept further north, they persist in wintering their stock in the Cherokee Nation; and the ninth section of the act of June 30, 1834, "To regulate trade and intercourse with the Indian tribes and to preserve peace on the frontier," is quoted in justification of the imposition of the tax in part. The section is in these words: "That if any person shall drive or otherwise carry any stock of horses, mules, or cattle, to range or feed on any land belonging to any Indian or Indian tribe, without the consent of the tribe, such person shall forfeit the sum of one dollar for each animal of such stock." Now this is conclusive in regard to that portion of the tax exacted for the privilege of grazing stock within the limits of the Cherokee reserve. The tax is within the amount of the penalty fixed by law for grazing stock without the consent of the nations, even though the stock should be kept upon their grazing land full three months. It only remains then to inquire into the legality of the tax imposed for the right of way through the country, which is 10 cents per head for all stock driven through the territory of the Cherokee Nation from Texas to northern markets. If it were only occasional herds, and so small as to make but little impression upon the native pastures, the committee is not prepared to say that the tax would be either proper or legal any more than would a like tax upon the air or water. But the herds are large and very numerous, and so far as the committee can ascertain, wholly dependent upon the grass on their passage through the entire length of the country. Not only so, but it is charged by the principal chief in the paper before mentioned, that "advantage is taken of the right of passage through to graze all over the country." He says, "Large herds will often move but from three to five miles per day, and zigzag all over the country, so as to take in their course the finest grazing; so that, while only claiming to pass through, they actually spend the greater portion of the summer and autumn in grazing over Indian country." It becomes a very serious affair to a people who are only just abandoning the chase, and for the most part entering the pastoral stage of civilization.—The grass is the great crop of the season, and if grazed down during the summer it is not difficult to imagine the condition of the native stock during the winter and spring. The Indians are not more provident than their white neighbors in the Southwestern States, who do not feed their stock in winter. The trade is already very large between Texas and the people of Kansas, and on the increase. The evil may become so serious soon as to trench upon the subsistence of the people whose chief reliance for support is thus consumed annually. No one will insist upon the right to pass, on foot, large herds of almost wild cattle through highly-cultivated sections of country,

where the inhabitants, from the great expense, have, by law or common consent, dispensed with fences, and keep up and feed their own cattle. There are many such communities in the different States. A few herds of five hundred or a thousand head each, driven through such settlements in the summer or fall of the year, would effectually destroy the growing crops, if permitted to wander from the public highway. Yet the damage to the inhabitants would be little greater in fact, though larger in amount, than that suffered by the Indians in the partial or total destruction of their chief crop, the grass, upon which they rely for meat and milk, and in a great degree for bread and other necessaries as well.

Under the conditions above stated, drovers would be obliged to pen and feed their cattle on their passage through cultivated sections of the country. If this be done by drovers in the Indian country there will be no pretext for levying a tax upon the passage of stock. This view of the subject is borne out by the eighth section of the act of June 30, 1834, before referred to, which reads as follows: "That if any person other than an Indian shall, within the limits of any tribe with whom the United States shall have existing treaties, hunt or trap or take and destroy any peltries or game, except for subsistence, in the Indian country, such person shall forfeit the sum of five hundred dollars and forfeit all traps, guns, and ammunition in his possession, used or procured to be used for that purpose, and peltries so taken." This penalty was denounced against intruders upon the hunting-grounds of the Indians, as much for the economy and preservation of the chief reliance of the tribes for subsistence as for the preservation of peace on the frontiers. At that time the chase was the principal occupation of the Cherokees, game and peltries their principal means of support; now, however, the grass crop greatly exceeds in value not only the game and peltries, but probably the receipts from all other industries and trades combined. The Cherokees deem their right to prohibit the introduction of Texas cattle into their territory, equally with Missouri and Kansas, for the same cause, to be indisputable; but being weak and desiring to avoid trouble, the nation considered a small tax levied for the privilege to be in fact a concession to the parties engaged in the trade.

The Department of the Interior has been frequently appealed to, as appears by the letter of the Commissioner of Indian Affairs of 19th May, 1870, but has reached no decision in the matter.

There is no law or department regulation, says the Commissioner, authorizing the tax, but the "various tribes who own the land levy the tax for their consent to permit the stock to pass through their territory."

"If the charges," says the Commissioner, "by the Indians are excessive, this department will consider suggestions that may be made with a view to the adjustment of any difficulties between parties."

The committee deem that the honorable Secretary of the Interior and his subordinates have full power under the law to protect the respective parties from wrong or outrage, and at the same time feel warranted in saying that the spirit, if not the letter, of the law fully justifies the Indians in the levy of the tax, and that the department ought to sustain them in its enforcement so long as it does not exceed the penalty imposed by the law of 30th June, 1834, for grazing stock upon Indian lands, which is \$1 per head. The committee consider the tax just and moderate. It is doubtful whether the Indians can long afford to accommodate the increasing trade upon any such terms. There is no necessity for legislation on the subject.

In reference to the method of collecting said tax, I remark that I have not before me the act of the national council levying the same, but I suppose that it provides, as tax laws generally do, that property may be distrained and sold for non-payment of the tax, and, if it does, there can be no objection to the proper Cherokee officer seizing and selling a sufficient number of the animals to pay the tax, and in so doing he should be sustained by the power of the United States Government.

Very respectfully,

R. B. COWEN,
Acting Secretary.

Hon. E. P. SMITH,
Commissioner Indian Affairs.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 18, 1876.

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant, inclosing what purports to be a copy of an act of the Choctaw Nation imposing a tax upon the property of the Missouri, Kansas and Texas Railroad Company, and in which you apply for an order of this department suspending the operation of said act for reasons therein stated. Your communication has been referred to the Commissioner of Indian Affairs, and I now inclose a copy of his report upon the subject.

Whatever power is possessed by the Choctaw Nation to impose taxes must be derived from some treaty or act of Congress of the United States. The right to impose taxes is not a right which has heretofore been exercised or claimed by the Choctaw Nation, so far as I am advised, and the only authority which has been conferred upon said nation for imposing taxes is found in the forty-seventh article of the treaty with the Choctaw and Chickasaw Indians, dated April 28, 1866, and proclaimed on the 10th day of July following. As the power therein conferred provides only for a proper system of taxation, which must be approved by the President before it shall possess any force or validity, and as until such system is devised and approved said treaty makes ample provision for the payment of the expenses of the government of said nations, as well as the support of a judicious system of education, no necessity would seem to exist for the raising of taxes by the Choctaw Nation. However that may be, the act in question does not comprehend a system of taxation, and has not received the approval of the President, and hence can have no force whatever as law.

The act being, in the opinion of this department, wholly void and incapable of enforcement in the absence of any official information from said nation of its passage, it is not deemed necessary that any order should be made by this department suspending its operation.

I am, sir, very respectfully, your obedient servant,

Z. CHANDLER,
Secretary.

F. A. SEARS, Esq.,
Attorney Missouri, Kansas and Texas Railroad, Sedalia, Mo.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 6, 1878.

SIR: I have the honor to acknowledge the receipt, by reference of 18th ultimo, from the department of a resolution adopted by the Senate of the United States, April 17, 1878, in the following words, to wit:

Resolved, That the Secretary of the Interior be, and he hereby is, directed to furnish the Senate with copies of any and all decisions of that department relative to the right of the Indians to impose taxes in the Indian Territory, and also copies of any and all papers on file in the department relating to the so-called permit law.

In compliance with the directions contained in your reference, I have the honor to forward herewith copies of the following papers:

Exhibit No. 1.—Report of the Commissioner of Indian Affairs, dated March 23, 1877, to the honorable Secretary of the Interior, upon letter from Coleman Cole, principal chief Choctaw Nation, dated January 31, 1877, inclosing copy of letter from Agent S. W. Marston, Union agency,

Indian Territory, to certain citizens of the Chickasaw Nation, and demanding his immediate removal.

Exhibit No. 2.—Decision of the honorable Secretary of the Interior, April 2, 1877, relative to the charges against Agent Marston by Coleman Cole.

Exhibit No. 3.—Acting Commissioner of Indian Affairs's reply, dated May 28, 1877, to Agent Marston's letter of April 28, 1877, inclosing petition of residents of Chickasaw Nation asking relief from the \$25 tax imposed by said nation.

Exhibit No. 4.—Commissioner of Indian Affairs's reply, dated June 26, 1877, to letter from W. E. Martin, James's Fork, Arkansas, relative to the right of the Choctaw Nation to tax settlers.

Exhibit No. 5.—Commissioner of Indian Affairs, July 30, 1877, submits to the honorable Secretary of the Interior, for instructions, communication from Agent Marston, dated June 18, 1877, inclosing letter from Dr. T. F. Ealy, a government teacher, complaining of the attempt of Governor Overton, of the Chickasaw Nation, to collect a tax of \$25 from him, under the permit law of said nation, approved October 17, 1876.

Exhibit No. 6.—Decision of the honorable Secretary of the Interior, dated August 27, 1877, in regard to the permit law of the Choctaw and Chickasaw Nations, and instructions to take such steps through the United States agent at the Union agency, Indian Territory, as will compel the said tribes to cease further action under said law.

Exhibit No. 7.—Commissioner of Indian Affairs submits to the honorable Secretary of the Interior, January 12, 1878, a certified copy of an act of the Choctaw Council, approved October 30, 1877, entitled "An act to sell improvements made by non-citizens," with letters from Coleman Cole and Agent Marston, dated 15th and 21st of November last, respectively, relative thereto, and recommends that the act referred to be not approved for the reasons stated.

Exhibit No. 8.—Acting Commissioner of Indian Affairs recommends proper action by the department in regard to the attempted enforcement by the Chickasaw Nation of the so-called permit law, approved by the governor of said nation October 17, 1876.

Exhibit No. 9.—Agent Marston, December 30, 1876, asking instructions as to whether the tribal authorities may tax licensed traders and other United States citizens *ad libitum* without rebuke.

Exhibit No. 10.—Agent Marston, January 3, 1877, asking if the permit law of the Chickasaw tribe, taxing teachers, mechanics, and farmers \$25 a year, has had the approval of the United States Government.

Exhibit No. 11.—The President of the United States refers letter from C. Cole, principal chief Choctaw Nation, dated January 31, 1877, asking the removal of Agent Marston, Union agency, to the Secretary of the Interior.

Exhibit No. 12.—Agent Marston, February 19, 1877, submits statement relative to his decision in regard to the Chickasaw Nation imposing and collecting taxes; also incloses copy of "general permit law of the Chickasaw Nation," and copy of communication from D. C. Cooper, Fort Washita, Ind. T., of February 12, 1877, relative to said permit law.

Exhibit No. 13.—Agent Marston, March 30, 1877, asking for instructions as to the tax-law of the Chickasaw Nation, and inclosing copy of his letter of January 18, 1877, to certain residents in that nation giving his opinion of said law.

Exhibit No. 14.—Agent Marston, April 16, 1877, relative to the tax-law of the Chickasaw Nation.

Exhibit No. 15.—Agent Marston, April 28, 1877, forwards petition of certain Chickasaw citizens for protection of United States Government against the enforcement of the \$25 tax law.

Exhibit No. 16.—Communication from Governor B. F. Overton, Chickasaw Nation, dated May 21, 1877, relative to his action in removal of intruders and collecting tax.

Exhibit No. 17.—W. E. Martin, of Skullyville, Indian Territory, June 13, 1877, asks if Choctaw Nation has a right to tax non-citizens.

Exhibit No. 18.—Agent Marston, June 18, 1877, asks whether a tax of \$25 shall be paid to the Chickasaw Nation for one of the government teachers, Dr. T. F. Euly, and incloses copy of letter from him.

Exhibit No. 19.—W. C. Probst, of Dexter, Tex., July 14, 1877, relative to his being put out of the nation by the governor of the Chickasaw Nation.

Exhibit No. 20.—H. A. Rogers, of Fort Smith, Ark., July 29, 1877, relative to action of Choctaw Nation in taxing white citizens residing in said nation, states that they are threatened with immediate expulsion unless the tax is paid, and asks protection of the Department of the Interior.

Exhibit No. 21.—H. A. Rogers, of Fort Smith, Ark., August 4, 1877, relative to removal of persons from Choctaw Nation for non-payment of of tax, &c., and inclosing copy of an order from Thomas J. Wall, sheriff of Skullyville County, Choctaw Nation, to leave within ten days.

Exhibit No. 22.—Agent Marston, August 8, 1877, as to intruders in Skullyville County, Choctaw Nation, inclosing petition and other papers from United States citizens residing in said nation.

Exhibit No. 23.—Letter from Coleman Cole, principal chief Choctaw Nation, dated Atoka, September 24, 1877, in regard to the decision of the Secretary of the Interior, as to the validity of the permit law of the Chickasaw Nation.

Exhibit No. 24.—Agent Marston, October 8, 1877, refers to the department a communication from J. D. Harris, dated October 4, relating to the Chickasaw permit law, and asks instructions.

Exhibit No. 25.—Agent Marston, October 8, 1877, transmits to the Secretary of the Interior a communication from William O. Edwards, dated October 4, relating to the permit law of the Chickasaw Nation.

Exhibit No. 26.—B. F. Colbert, Colbert's Station, Ind. T., November 2, 1877, asks information relative to the Chickasaw tax law.

Exhibit No. 27.—Agent Marston, November 8, 1877, transmits memorial of certain Chickasaw citizens, with other papers, relating to the so-called permit law.

Exhibit No. 28.—Hon. D. W. Voorhees, United States Senate, January 21, 1878, incloses letter from J. W. Rogers, dated January 9, complaining of the tax imposed upon white laborers by the Choctaw and Chickasaw Nations.

Exhibit No. 29.—The President of the United States, January 29, 1878, refers letter from Coleman Cole, principal chief of Choctaw Nation, dated January 10, 1878, inclosing copy of a resolution of general council of Choctaw Nation, relating to the setting aside of the decision of the Secretary of the Interior of August 27, 1877, upon the validity of permit laws, and inclosing other papers relating thereto.

Exhibit No. 30.—Lem Reynolds, January 30, 1878, presents petition and papers relative to the permit law in the Chickasaw Nation, with twelve inclosures.

Exhibit No. 31.—Agent Marston, February 6, 1878, asks authority to enforce the order prohibiting the Chickasaw authorities from taxing United States citizens.

Exhibit No. 32.—Agent Marston, February 26, 1878, refers letter from Robert L. Boyd, national secretary Chickasaw Nation, to Hon. L. C. True, Chetopah, Kans., relating to Governor Overton's persisting to collect the \$25 tax.

Exhibit No. 33.—Hon. Jordan C. Cravens, House of Representatives, incloses a communication addressed to the Secretary of the Interior from P. M. MacGeery, esq., dated Fort Smith, Ark., February 26, 1878, relative to the removal of white men who have leased lands of Indians from the Indian Territory, and asks early consideration.

Exhibit No. 34.—Hon. A. H. Garland, United States Senate, March 4, 1878, refers letter of Lem Reynolds, of March 1, asking department to afford relief to citizens of Chickasaw Nation from tax on labor, and asks for information relative thereto.

Exhibit No. 35.—Peter B. Arthur, Marysville, Tex., March 4, 1878, in relation to the Chickasaw permit law.

Exhibit No. 36.—Hon. D. W. Voorhees, United States Senate, March 5, 1878, refers to the Department of the Interior a letter of Lem Reynolds of March 2, relating to the Chickasaw permit law, and asks for such information as may be consistent with public duty.

Exhibit No. 37.—W. F. Cornish, Burneyville, Ind. T., March 17, 1878, relative to the Chickasaw permit law.

Exhibit No. 38.—William Williams, jr., Fort Sill, Ind. T., March 29, 1878, asks if Chickasaw authorities can eject him for non-payment of the \$25 tax.

Exhibit No. 39.—John Malcolm, Colbert's Station, Ind. T., April 20, 1878, relative to Chickasaw permit law, asks if he can be compelled to pay the \$25 tax.

The foregoing list embraces all letters and reports to the honorable Secretary of the Interior from the Commissioner of Indian Affairs, the decisions of the department relative to the right of the Indians to impose taxes in the Indian Territory, as well as all communications relating to the so-called permit law received by the department up to the present day.

The resolution of the Senate is herewith respectfully returned.

Very respectfully, your obedient servant,

WM. M. LEEDS,
Acting Commissioner.

The honorable the SECRETARY OF THE INTERIOR.

EXHIBIT No. 1.

DEPARTMENT INTERIOR, OFFICE INDIAN AFFAIRS,
March 23, 1877.

SIR: I have the honor to acknowledge the receipt, by your reference, from the President, for report, of a letter dated the 31st ultimo, from Coleman Cole, principal chief of the Choctaw Nation, inclosing a copy of a letter from S. W. Marston, United States Indian agent, to certain citizens of the Chickasaw Nation, and demanding the immediate removal of the agent for having written this letter.

The substance of the charge made by the chief against Agent Marston is that the legislature of the Chickasaw Nation having by act approved by the principal chief, October 17, 1876, imposed a "tax of \$25 each upon white persons skilled in agriculture," who are not citizens of that Nation, but are employed by citizens thereof, the agent had declared said act to be null and void, inasmuch as it had not been approved by him and was without authority of law.

This decision Chief Cole alleges to be equally applicable to the Choctaw Nation, and hence his demand for the removal of the agent.

The treaty provisions regulating the presence of persons not members of the Choctaw and Chickasaw Nations within their territorial limits are found in article 7 of the treaty of 1855 (Stat. at Large, vol. 11, page 612), and in article 43 of the treaty of 1866 (Stat. at Large, vol. 14, page 771). The former article, which is in force, subject to the modifications made by the latter, gave to the Choctaws and Chickasaws the "unrestricted right of self-government and full jurisdiction over persons and property within their respective limits." Exception was made in this article, however, to all persons with their property who were not members of the Choctaw or Chickasaw tribes. Such persons were to be considered as intruders and removed by the United States agent, with certain exceptions, these being (1) employes of the government and their families, (2) persons traveling or residing in the Territory under license from the proper authority of the United States, and (3) persons residing there by the permission of the Choctaw or Chickasaw authorities with the consent of the United States agent.

It seems to me that this article was intended to grant or guarantee to the Indians full control over any persons who were allowed to remain within their respective territorial limits, and that persons who were not citizens of the nations could escape taxation only by removal from their territory.

By article 43 of the treaty of 1866 the United States stipulated to remove all white persons, except government officials, or officers of any internal-improvement company, or persons traveling through or temporarily sojourning in the Territory, exception being made, however, in favor of teachers, mechanics, or persons skilled in agriculture. In respect to these, the United States and the Indians both agreed that the power of the United States should not be exerted in behalf of their removal. Whether they should go or stay is a question to be settled by the parties in interest. If the Chickasaws should deem it best to effect their removal, it is entirely competent for them so to do. If, on the other hand, the Chickasaws see fit to let them stay, I do not see how the persons thus favored can complain if they are called upon by the Chickasaws to bear their share in support of the national government. If such persons desire the protection of the United States, they can readily obtain it by removing to some State or Territory where no Indian nation, invested by solemn treaty with the "unrestricted right of self-government and full jurisdiction over persons and property," can claim authority over them. Having voluntarily fled their responsibility as citizens of the United States, and come under the jurisdiction of this Indian nation, they cannot expect the government to violate a treaty to relieve them from the consequences of their own act.

Upon the propriety or wisdom of this legislation I do not venture to express an opinion. The settlement of that question is left exclusively to the Indians by the 7th article of the treaty of 1855.

The action of the agent, therefore, appears not to have been fully warranted, but there is no reason to suppose that it was due to anything further than erroneous judgment upon a question of law, and I see no reason for acceding to the demand of the principal chief of the Chickasaws for his removal.

A copy of this report will be sent for his guidance.

Very respectfully,

J. Q. SMITH,
Commissioner.

The Honorable the SECRETARY OF THE INTERIOR.

EXHIBIT No. 2.

DEPARTMENT OF THE INTERIOR,
Washington, April 2, 1877.

SIR: Your letter of the 23d ultimo, reporting upon the charges preferred by Coleman Cole, principal chief of the Choctaw Nation, against his agent, Mr. S. W. Marston, of the Union agency in the Indian Territory, has been received.

It would appear that Agent Marston's offense was at most only an error of judgment upon a point of law, and I have this day written Chief Cole to that effect, informing him also that the agent cannot be removed for such cause.

Very respectfully, &c.,

C. SCHURZ,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

EXHIBIT No. 3.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 28, 1877.

SIR: Your letter of the 23th ultimo, inclosing petition of residents of the Chickasaw Nation asking relief from the \$25 tax imposed by said nation, has been received.

While I regret that any laws of the said nation may bear heavily on these parties, yet I incline to the opinion that any merely impolitic or indiscreet legislation should more properly be corrected without interference on the part of the general government.

Very respectfully,

S. A. GALPIN,
Acting Commissioner.

S. W. MARSTON,
United States Indian Agent, Union Agency, Muscogee, Ind. T.

EXHIBIT No. 4.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, June 26, 1877.

SIR: Your letter of the 13th instant, asking information relative to the right of the Choctaw Nation to tax settlers, is received. It is the opinion of the department that, however politic or otherwise such action may be on the part of the Choctaw authorities, their right to impose such a tax is unquestioned.

Very respectfully,

J. Q. SMITH,
Commissioner.

W. E. MASTIN,
James Fork P. O., Sebastian County, Ark.

EXHIBIT No. 5.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
July 30, 1877.

SIR: I have the honor to submit herewith, for your consideration and instruction, communication dated June 18, 1877, from S. W. Marston, esq., United States Indian agent at the Union agency, Indian Territory, inclosing letter of Dr. S. F. Ealy, complaining of the attempt of Governor Overton, of the Chickasaw Nation, to collect a tax of \$25 from him, under the permit law of said nation, approved by the governor, October 11, 1876, a copy of which law is herewith inclosed.

Dr. Ealy was appointed by Agent Marston as teacher of the freedmen's school at Fort Arbuckle, Ind. T., at a salary of \$100 per month, commencing January 26, 1877, and continuing for the remainder of the fiscal year. He was borne upon said agent's rolls as an employé, and paid out of the appropriation of \$20,000 "for the support of industrial schools, and other educational purposes among the Indians," made by the Indian appropriation act of August 15, 1876. (19 Statutes, 197.)

As an employé of the United States Government, Dr. Ealy was, in the opinion of this office, clearly exempt from taxation by the Chickasaw Nation, under treaty stipulations, as well as by the settled principles of law which define and regulate the relations existing between the general government and the Indian tribes.

It is, however, deemed an opportune occasion to call the attention of the department to the law in question, not only as it affects the case now under consideration, but with reference to all other cases which may be claimed to fall within its purview, and to request the opinion of the honorable the Secretary of the Interior as to whether it possesses any validity whatever, or is null and void *in toto*.

In this connection, I have the honor to refer to some decisions bearing upon the general subject of the taxing powers of the Chickasaw and Choctaw Nations, and to call attention to the uncertainty resulting from them, and the importance of a final determination of the question, so that a uniform rule may be applied in dealing with the subject as it may present itself hereafter.

On the 10th of April, 1876, F. A. Sears, esq., attorney for the Missouri, Kansas and Texas Railroad Company, addressed the department in a letter which inclosed what purported to

be a copy of an act of the Choctaw Nation, imposing a tax upon the property of said railroad, and asked for an order suspending the execution of said law. His letter was referred to this office for a report, which was made April 13, 1876, and on the 18th of the same month the honorable the Secretary of the Interior rendered a decision to the effect that whatever power of taxation said nation possessed was derived from the forty-seventh article of the treaty of April 28, 1866; that the power conferred by said article contemplated only a proper system of taxation, to be approved by the President; that the treaty provided ample funds for the expenses of the government of said nation, as well as for a judicious system of education, and therefore no necessity for taxation seemed to exist; that the act in question did not comprehend a system of taxation, and had not received the approval of the President, and consequently was wholly void and incapable of enforcement, and therefore required no order of the department to suspend its operation.

Shortly after the passage of the permit law now under consideration, its attempted enforcement caused great complaint, and the matter having been brought to the attention of Agent Marston, he declared it to be in violation of treaty stipulations and void. For this cause, Coleman Cole, principal chief of the Choctaw Nation, addressed a communication to the President, under date of the 31st January, 1877, demanding the immediate removal of said agent. This communication was, in due course, referred to this office for report, which was made March 23, 1877, to the effect that the law was valid, and that the Chickasaw Nation did possess the general power of taxation, however impolitic its exercise might be, but that as the agent was only guilty of an error of judgment upon a question of law, it constituted no sufficient cause for his removal. The decision of the department upon this report was communicated to this office on the 2d April, 1877, in the following language: "It would appear that Agent Marston's offense was, at most, only an error of judgment upon a point of law, and I have this day written Chief Cole to that effect, informing him also that the agent cannot be removed for such cause."

The confusion likely to flow from these conflicting views, and the importance of a settled rule upon the subject, render evident the necessity for an early definitive determination of the question of the right of taxation by said Indians, and I have, therefore, the honor to request full instructions in the premises. I respectfully ask the return of the inclosed papers, with your instructions.

Very respectfully, your obedient servant,

J. Q. SMITH,
Commissioner.

The honorable the SECRETARY OF THE INTERIOR.

EXHIBIT No. 6.

DEPARTMENT OF THE INTERIOR,
Washington, August 27, 1877.

SIR: I am in receipt of your communication of the 31st ultimo, submitting for the consideration of this department a letter from S. W. Marston, United States Indian agent at the Union agency, Indian Territory, dated June 18, 1877, inclosing a letter of Dr. T. F. Ealy, who complains of the attempt of Governor Overton, of the Chickasaw Nation, to collect a tax of \$25 from him under the requirements of what is known as the "permit law," enacted by the Chickasaw legislature, and approved by Governor Overton, October 17, 1876, a copy of which was transmitted.

From the papers transmitted it appears that Dr. Ealy is, and was at the time of the alleged attempt to collect the tax in question, an employé of the Indian Office, acting as a teacher, at a salary of \$100 per month, under the control of Agent Marston.

You submit for my consideration and opinion the question whether said permit law possesses any validity whatever, or is null and void *in toto*. You also call my attention to a decision of my predecessor, contained in a letter dated April 15, 1876, and addressed to F. A. Sears, esq., attorney for the Missouri, Kansas and Texas Railroad Company, which is as follows:

"Whatever power is possessed by the Choctaw Nation to impose taxes, must be derived from some treaty or act of Congress of the United States. The right to impose taxes is not a right which has heretofore been exercised and claimed by the Choctaw Nation, as far as I am advised, and the only authority which has been conferred upon said nation for imposing taxes, is found in the forty-seventh article of the treaty between the Choctaw and Chickasaw Indians, dated April 28, 1866, and proclaimed on the 10th of July following. As the power therein conferred provides only for a proper system of taxation which must be approved by the President before it shall possess any force or validity, and as, until such system is devised and approved, said treaty makes ample provision for the payment of the expenses for the government of said nation, as well as the support of a judicious system of education, no necessity would seem to exist for the raising of taxes by the Choctaw Nation. However that may be, the act in question does not comprehend a system of taxation and has not received the approval of the President, and hence can have no force whatever as law."

The only other decision of this department having any relation to the subject of taxation under said treaty was made April 18, 1877. This decision was made upon the following statement of facts:

Mr. Marston, the present Indian agent, whose letter is one of the inclosures submitted by you, decided that the permit law passed by the Chickasaw Nation was void, because it had not been submitted to him for his approval.

Upon the promulgation of the agent's decision, Chief Cole, of the Choctaw Nation, asked his removal in a letter addressed to the President of the United States. This letter was referred to you for a report. In your report, after a general review of the powers of legislation conferred upon the Choctaws and Chickasaws by the seventh article of the treaty of 1855, and the forty-third article of the treaty 1866, you made use of the following language:

"Upon the propriety or wisdom of this legislation I do not venture to express an opinion; the settlement of that is left exclusively to the Indians by the seventh article of the treaty of 1855. The action of the agent, therefore, appears not to have been fully warranted, but there is no reason to suppose that it is due to anything more than erroneous judgment upon a question of law, and I see no reason for acceding to the demand of the principal chief of the Choctaws for his removal."

It will thus be seen that the question then presented was not so much the validity of the law, as whether the agent should be removed for what was considered an improper assumption of authority, and as the President and not the agent is the proper authority to decide whether the law should be approved, and the retention or removal of the agent was the subject under discussion, the decision of this department was expressed as follows:

"It would appear that Agent Marston's offense was, at most, only an error of judgment upon a point of law, and I have this day written to Chief Cole to that effect, informing him that the agent cannot be removed for such cause."

There is nothing in this decision which indicates a different opinion from that expressed by my predecessor. If a different ruling was understood to have been intended, it must have arisen from the interpretation placed by you upon the meaning and intent of the seventh article of the treaty of 1855, and forty-third article of the treaty of 1866. Upon this point your report reads as follows: "It seems that this article (7) was intended to grant or guarantee to the Indians full control over any persons who were allowed to remain within their respective territorial limits, and that persons who are not citizens of the nations could escape taxation only by removal from their territory." This language requires an examination of the provisions, restrictions, and limitations of article 7, in order to determine how far your interpretation can be sustained. Article 7 reads as follows:

"So far as may be compatible with the Constitution of the United States, and the laws made in pursuance thereof, regulating the 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; and all persons, not being citizens or members of either tribe, found within their limits shall be considered intruders, and be removed from and kept out of the same by the United States agent, assisted if necessary by the military, with the following exceptions, viz: such individuals as are now or may be in the employment of the government, and their families; those peacefully traveling and temporarily sojourning in the country, or trading therein under license from the proper authority of the United States, and such as may be permitted by the Choctaws or Chickasaws, with the assent of the United States agent, to reside within their limits, without becoming citizens or members of either of said tribes."

By which article it will be seen that all persons with their property who are not by birth, adoption, or otherwise, citizens or members of either the Choctaw or Chickasaw tribe, were excepted from the government and control of either the Choctaws or Chickasaws.

The evident intent of the article was to limit the government and jurisdiction of said nations to persons who are members of either of the respective tribes. In so far, therefore, as your report expresses the opinion that said Indians had "full control" over any persons who are allowed to remain in their respective territorial limits, and that persons who are not citizens of the United States could escape taxation only by removal from their territory, I think you were in error. Persons not members of either of said tribes, unless agents or employes of the government, with their families, possessed no rights within the limits of their territory, and if not peacefully traveling or temporarily sojourning in the country, or trading therein under license from the proper authority of the United States, or remaining there by the permission of the Choctaws or Chickasaws, with the assent of the United States agent, without becoming citizens or members of either of said tribes, might be expelled from said territory. But this was to be done by the United States agent, assisted, if necessary, by the military. The Indians had no right or authority to expel such persons by virtue of the seventh article of the treaty of 1855.

In relation to the forty-third article of the treaty of 1866, your report says:

"By article forty-three of the treaty of 1866, the United States stipulated to remove all white persons except government officials, or officers of any internal-improvement company, or persons peacefully traveling or temporarily sojourning in the Territory; exception being

made, however, in favor of teachers, mechanics, or persons skilled in agriculture. In respect to these, the United States and the Indians both agree that the power of the United States should not be exerted in behalf of their removal. Whether they should go or stay is a question to be settled by the parties in interest. If, the Chickasaws should deem it best to effect their removal, it is entirely competent for them to do so. If, on the other hand, the Chickasaws see fit to let them stay, I do not see how the persons thus favored can complain if they are called upon by the Chickasaws to bear their share in support of the national government. If such persons desire the protection of the United States, they can readily obtain it by removing to some State or Territory where no Indian nation, invested by solemn treaty with the unrestricted right of self-government and full jurisdiction over persons and property, can claim authority over them. Having voluntarily fled their responsibility as citizens of the United States, and come under the jurisdiction of this Indian nation, they cannot expect the government to violate a treaty to relieve them from the consequences of their own act."

The forty-third article of the treaty of 1866 reads as follows :

"The United States promise and agree that no white persons except officers and agents and employés of the government, and of any internal-improvement company, or persons traveling through or temporarily sojourning in said nations, or either of them, shall be permitted to go into said Territory, unless formally incorporated and naturalized by the joint action of both nations into one of the said nations of the Choctaws and Chickasaws, according to their laws and 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 to be taken to interfere with or invalidate any action which has heretofore been had in this connection by either of said nations, according to their laws and customs and usages."

By this article the United States agreed to prohibit all persons except certain classes named from entering their territory, but at the same time it was provided that this prohibition should not extend to or be construed to include persons who had been theretofore adopted, nor those temporarily traveling or sojourning therein, nor to prevent the employment temporarily by the Choctaws or Chickasaws of white persons who are teachers, mechanics, or skilled in agriculture, or to prevent the legislative authorities of the respective nations from authorizing works of internal improvement, such as they might deem essential to their welfare and prosperity. There is nothing in this article authorizing either the Choctaw or Chickasaw nation to expel from their territory any persons whom they might find there, nor are the means indicated by which the United States are to prohibit persons from entering the same.

It may be reasonable to suppose, therefore, that the same means would be used to prohibit persons from entering either territory that are mentioned in the seventh article of the treaty of 1855, viz, the Army of the United States. But this authority was not to be exercised as to such persons as had been adopted into either of said nations, or to prevent the employment temporarily of white persons who were teachers, mechanics, or skilled in agriculture, &c. In other words, the United States did not agree to prohibit these classes of persons from entering the territory of said nations.

If, therefore, there are persons now residing within the limits of the territory of either of said nations, who are teachers, mechanics, or skilled in agriculture, and they are employed, the United States will not undertake to remove them, nor can either of said nations expel them unless for crime committed. If there are persons residing within the limits of the territory of either of said nations contrary to the provisions of the treaties of 1855 and 1866, who should be removed, it is the duty of the Choctaws and Chickasaws to call the attention of the government to them and ask for their removal.

The treaties with the Choctaws and Chickasaws set forth that the stipulations were to advance their permanent welfare, promote general civilization, and protect the best interests of their people, to encourage habits of industry, stimulate education and a knowledge of the useful arts. It was for these reasons that the restrictions were so far modified in the classification of persons that were to be allowed to enter the Choctaw and Chickasaw country.

Without entering upon a discussion of the law of taxation, I concur in the opinion of my predecessor, that the forty-seventh article of the treaty of 1866 prescribes the only mode by which a system of taxation can be adopted by either of said nations, and that until the provisions of that article are complied with, neither of said nations have any authority to pass or enforce a law on that subject. There are conditions precedent and subsequent to be performed before such a right will exist, neither of which have been complied with. You will therefore take the necessary steps, through the United States Indian agent, at the Union agency, Indian Territory, to inform the Choctaws and Chickasaws that further action under the permit law above mentioned must cease.

I herewith return the papers transmitted with your letter of the 31st ultimo.

Very respectfully,

C. SCHURZ,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

AN ACT to sell improvements made by non-citizens.

SEC. 1. *Be it enacted by the general council of the Choctaw Nation assembled,* That all non-citizens not in the employ of citizens, who have made improvements in said nation, are hereby notified that they are allowed until the last day of January, 1878, to sell their improvements to citizens, and if such non-citizens fail to comply with the provisions of this act, then it shall be the duty of the sheriffs to advertise such improvements for sale in thirty days, and sell the same at the appointed time, on the premises, to the highest Choctaw bidder, for cash, one-half to be turned into the county treasury, and the other half into the national treasury: *Provided, however,* That if such non-citizens fail and refuse to deliver up the occupancy of said improvements, then such non-citizens shall be reported by the sheriffs to the principal chief, and by him to the United States Indian agent for his removal and action against them under section 2118, United States Revised Statutes.

SEC. 2. *Be it further enacted,* That all subsequent violations of this act shall be treated in the same way as provided above, and the principal chief is hereby required to send an authenticated copy of this act to the United States agent, with the request that he secure the approval of such a representative of the United States Government hereupon as will insure its enforcement at as early a day as practicable.

SEC. 3. *Be it further enacted,* That this act take effect and be in force from and after its passage.

(Proposed by John Dawson, chairman committee on judiciary.)

Approved, Oct. 30th, 1877.

COLEMAN COLE,
Principal Chief Choctaw Nation.

I hereby certify that the foregoing act is true and correct copy taken from the original filed in secretary's office, at Chata Tamaha, this 31st October, 1877. In testimony whereof I have caused the seal of the Choctaw Nation to be affixed.

[SEAL OF CHOCTAW NATION.]

THOMPSON MCKINNEY,
National Secretary Choctaw Nation.

OFFICE OF INDIAN AFFAIRS, UNITED STATES UNION AGENCY,
Muscogee, Indian Territory, April 18, 1877.

SIR: Yours of the 2d instant was duly received, and would have been sooner answered if I had not expected to be at your office last Saturday, and talk with you face to face upon the subject-matter and character of your communication; but as I was disappointed in my expectation of seeing you, I now write simply to say, in my answer to your inquiry, as to what amount of taxation upon the United States citizens I am willing to approve. I am willing to approve whatever amount may be assessed by the proper authorities of your tribe upon licensed traders, in accordance with the sixteenth article of the treaty of 1855. All other United States citizens, except licensed traders, are to be considered as intruders, unless permitted by your authorities to remain in your country, upon such terms as you may dictate.

Very respectfully,

S. W. MARSTON,
United States Indian Agent.

Hon. COLEMAN COLE,
Principal Chief Choctaw Nation, Atoka, Indian Territory.

EXECUTIVE OFFICE, C. N.,
November 15, A. D. 1877.

DEAR SIR: I do hereby respectfully inform your honor, and herewith inclosed an authenticated copy of the last act of the Choctaw council, approved October 30, 1877, with request that you will please secure the immediate approval of the United States Government, so as to insure its enforcement at as early a day as practicable. And also, I herewith enclose a copy of your letter dated Muscogee, April 18, 1877, to this office. Speaking of the treaty of 1855, article 16th says: "All other United States citizens except licensed traders are to be considered as intruders, unless permitted by our authorities to remain in our country upon such terms as we may dictate." This was as much as to say, upon such terms as we may see fit to charge them for being permitted to stay in the nation. See the same treaty, article 7th, read as follows: "So far as may be compatible with the Constitution of the United States, and laws made in pursuance thereof regulating trade and intercourse with the Indian tribes, the Choctaws and the Chickasaws shall be secured in the unrestricted right of self-government and full jurisdiction over persons and property within their respective limits."

The great talk is that the great progress of white men over this continent, but reason the case. While that is so, we have certain rights (which the white man has no interest in) which are secured to us by treaties, which are declared by the United States Constitution to be supreme law of the land.

The country we hold in common with us is in fee-simple with the appurtenances to the Choctaws and the Chickasaws' people or nations, and to the heirs and their descendants, and the meaning is to no other people.

The great talk in Washington of territorializing the Indian Territory is all song. It was that same the United States Congress give us, the fee-simple title to this land we occupy to live on it and work the soil, and here we are. The United States Congress nor any other power, but by force, can take it away from us. We have our system of government, which our treaties recognize, and the United States, by solemn treaties, has promised to uphold and sustain us in it forever, just as much as she has declared to protect the State-rights as well as the individual rights.

Immediate answer is required. I am in duty bound ever pray.

I have the honor to be your most humble servant,

COLEMAN COLE,

Principal Chief Choctaw Nation.

Rev. S. W. MARSTON,
United States Agent, Indian Territory.

OFFICE INDIAN AFFAIRS, UNITED STATES UNION AGENCY,
Muscogee, Indian Territory, November 21, 1877.

SIR: At the request of Hon. Coleman Cole, chief Choctaw Nation, I herewith transmit an authenticated copy of "the last act of the Choctaw council, approved October 30, 1877," and with the chief's copy of my letter of April 18.

That you may understand the wishes of the chief more fully than I could inform you, I take the liberty of forwarding also his communication to this office of 15th instant, transmitting said papers. He requests that I "secure the immediate approval of the United States Government" of said act, "so as to insure its enforcement at as early a day as practicable."

To show that the Choctaws have the "unrestricted right of self-government and full jurisdiction over persons and property" within their limits, he quotes from the seventh article of the treaty of 1855, but stops before he reaches the exceptions made in said treaty, which leaves them jurisdiction only over their own citizens. It is clearly a violation of United States intercourse laws for citizens of the United States to go into and make improvements upon Indian lands, and the Indian tribes should be protected in all the rights and privileges guaranteed them under treaties, and citizens of the United States should be protected in the rights and privileges they may have. Some, I understand, have made improvements, under contracts entered into with citizens of the Choctaw Nation to improve for them and have the benefit of said improvements for a certain length of time—some two, three, and even five years—the citizen to procure from the Choctaw authorities permits for them to live upon said improvements. But when a tax was imposed upon these citizens of the United States by legislative authority of the Choctaw Nation, the citizens for whom they were making these places failed to procure the permits. My letter to the department of August 7, and exhibits Nos. 1, 2, and 3 accompanying it, may give you some light upon this. The freedmen who were formerly slaves of the Choctaws have never been adopted by the Choctaw legislature. All are living among them, and have made improvements.

The matter is respectfully submitted for your action.

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

S. W. MARSTON,
United States Indian Agent.

Hon. E. A. HAYT,
Commissioner Indian Affairs, Washington, D. C.

EXHIBIT No. 7.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 12, 1878.

SIR: I have the honor to submit herewith, for your consideration and action, a certified copy of an act of the Choctaw council, approved October 30, 1877, entitled "An act to sell improvements made by non-citizens," with letters, dated respectively the 15th and 21st ultimo, relative thereto, from Hon. Coleman Cole, the principal chief of the Choctaw Nation, and S. W. Marston, United States Indian agent at Muscogee. This appears to be an at-

tempt upon the part of the Choctaw Nation to assume jurisdiction over the person and property of individuals who are not citizens of either the Choctaw or the Chickasaw Nation.

The seventh article of the Choctaw and Chickasaw treaty of June 22, 1855 (vol. 11, p. 611, United States Stats. at Large), provides that "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." * * *

This limitation to the jurisdiction of the Choctaw Nation has not been modified by the treaty of 1866 or by any act of Congress so as to authorize said nation to exercise any political authority whatever over non-citizens, and any attempt by the Choctaw Nation to legislate concerning them is clearly in violation of this article of the treaty.

The employment temporarily of "white persons who are teachers, mechanics, or skilled in agriculture" is permitted under the forty-third article of the treaty of April 28, 1876, with the Choctaws and Chickasaws (vol. 14, p. 769, Stats. at Large), and it appears from the agent's letter that certain citizens of the United States who were authorized so to do by said article have made improvements under contracts with members of the Choctaw Nation, the benefits of which the employés were to enjoy for a certain number of years. The agent also states that the Choctaws agreed in said contracts to procure from their national authorities permits for these citizens to live on said improvements during the time they were to occupy the same under their agreements, but when the legislature of the Choctaw Nation imposed a tax on citizens of the United States, they failed to procure said permits.

These improvements and also the improvements made by the freedmen who were formerly slaves of the Choctaws are liable to be sold under this act.

The Choctaw Nation has a remedy against persons who are in their country without authority of law under the provisions of section 2149 of the Revised Statutes, and they could readily have all intruders removed therefrom by applying to the agent or this office.

I therefore respectfully recommend that this act of the Choctaw Nation be not approved, and that Agent Marston be instructed to notify the proper authorities of said nation that the sale of improvements owned by persons who are in the Choctaw Nation under authority of law will not be permitted.

Very respectfully, your obedient servant,

E. A. HAYT,
Commissioner.

The honorable the SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 19, 1878.

SIR: By letter of the 30th of July, 1877, this office submitted for your consideration a communication dated June 18, 1877, from S. W. Marston, United States Indian agent, Union agency, Indian Territory, having reference to the permit law enacted by the Chickasaw National Council, and approved by the governor of said nation October 17, 1876.

Subsequently, under date of August 27, 1877, the department held, in brief, that the action of the Chickasaw legislature was unauthorized by the treaties with that nation, and, consequently, that the so-called permit laws were null and void, and directed this office to "take the necessary steps through the United States Indian agent at the Union agency, Indian Territory, to inform the Choctaws and Chickasaws that further action under the permit law above mentioned must cease."

In pursuance of these instructions Agent Marston was directed, by letter of the 3d of September last, to notify the authorities of the Choctaw and Chickasaw Nations of the decision of the department, and to require a prompt and strict compliance therewith. This duty the agent performed, as he reports on September 18, 1877.

I have since that date received several communications from citizens of the nation and from the United States Indian agent, showing conclusively a determination on the part of the Chickasaw governor not only to ignore the action of the department in the matter of the permit laws, but to continue to enforce the same.

I am also in receipt, by your reference from the President, of a letter from Coleman Cole, chief Choctaw Nation, dated January 10, 1877, protesting against the decision of August 27, 1877.

A petition, accompanied by a number of exhibits, dated January , 1878, and signed by fifty-one persons, citizens or residents within the Chickasaw Nation, has recently been filed, asking the intervention of the department to protect them against the further enforcement of the permit law. It appears from these and other papers in the case that the courts of the nation are instructing their juries to bring indictments against persons failing to take out

permits; that the judge of Penola County has issued a proclamation notifying all persons to take out such permits prior to the February term of the circuit court (which it is understood meets on the third Wednesday of this month), and that Governor Overton has expressed his intention to enforce the law as against the citizens of the nation employing citizens of the United States, if he may not levy the tax upon those primarily intended to be reached by the permit law. The governor thus seeks to accomplish by indirection what he was inhibited from doing by departmental decision of the 27th of August, 1877.

It was held in the above-named decision that the only authority granted the Choctaw and Chickasaw Nations, by treaty or otherwise, for the levying of taxes, was to be found in the forty-seventh article of the treaty of April 28, 1866, and that as "the act in question does not comprehend a system of taxation, and has not received the approval of the President, it can have no force whatever as law." It follows, therefore, that the attempt of the Chickasaw authorities to enforce the permit law, in contravention of the decision and direction of the department, and in absence of the approval of the President, is in direct violation of the provision of the treaty of 1866 and the rights and powers theretofore recognized as existing in the nation. I am not aware of the existence of any treaty or law affording any remedy or method of procedure in cases of violation on the part of the authorities of the several tribes of Indians of the stipulations of the treaties where open hostilities are not resorted to by the tribe, yet it would seem that in the nature of things, and in view of the relation existing between the government and the Indians, such power must inherently exist in the government.

Section 2080, Revised Statutes, provides that "whenever the tribal organization of any Indian tribe is in actual hostility with the United States, the President is authorized by proclamation to declare all treaties abrogated by such tribe, if, in his opinion, the same can be done consistently with good faith and legal and natural obligations."

While the position assumed by the Chickasaw authorities in this matter is not an act of open hostility, it amounts to a flagrant violation on the part of the legislative, judicial, and executive branches of the nation of the stipulations of a treaty equally binding upon all parties, and in view of which the United States would be clearly warranted in declining to conform to the treaty stipulations binding on the government until the Chickasaws shall have assumed an attitude of good faith in this matter, and proceed to comply with the terms of the treaty. Such a course would be analogous to that provided by section 2080, above named, and may, it appears to me, be wisely pursued. It is clear that unless the department enforces its decisions by adequate measures, they have no other force or effect than mere opinions upon the matters involved.

With a view, therefore, to the enforcement of the decision of the 27th of August last, and for the purpose of compelling the Chickasaw authorities to conform to the terms of the treaty of 1866 in the repeal of the permit laws, I have the honor to recommend that the authorities of the Chickasaw Nation be informed that they will be expected at the next session of their legislature to repeal the said permit law, and that no further payments of annuity or other moneys arising under any treaty with them will be made until all measures looking to the enforcement of the same against either whites or Indians shall have been abandoned by the authorities, and the fact officially promulgated by the governor of the nation. This course has on several occasions been pursued to compel a compliance with treaty stipulations and the requirements of the department in matters pertaining to the tribal affairs of the Indians.

The most notable instance of this character arose out of the dissensions existing in the Cherokee Nation growing out of the treaty of 1835-'36 and the removal of the Ross party to the Cherokee country in Indian Territory. For the purpose of healing these difficulties, which were bitter and continued, the Commissioner of Indian Affairs, under instructions from the Secretary of War, by order dated November 9, 1839, directed Capt. William Armstrong, agent for said tribe, to make no further payment to the Cherokees until their difficulties were settled, and which order he was directed to communicate to the Indians immediately. This order remained in force until November 11, 1840, when, the difficulties in the nation having been composed, it was withdrawn by order of the Secretary of War.

I have also to suggest the propriety of extending the order in accordance with the request contained in the above-named letters, so as to require the treasurer of the Chickasaw Nation to refund the tax heretofore improperly collected.

I inclose herewith the following papers, to wit:

- 1st. Agent Marston's letter, dated October 8, 1877, with one inclosure.
- 2d. Agent Marston's letter, dated October 8, 1877, with one inclosure.
- 3d. Letter of B. F. Colbert, dated November 2, 1877.
- 4th. Agent Marston's letter, dated November 8, 1877, with ten inclosures.
- 5th. Letter of Coleman Cole, chief Choctaws, dated January 30, 1878; and
- 6th. Letter of Lem. Reynolds, dated January 30, 1878, with 12 inclosures, all of which I respectfully request to have returned with your instructions in the matter.

Very respectfully, your obedient servant,

C. W. HOLCOMB,
Acting Commissione

The honorable the SECRETARY OF THE INTERIOR.

EXHIBIT No. 9.

UNION AGENCY, INDIAN TERRITORY,
Muscogee, December 30, 1876.

SIR: I would most respectfully ask, for the benefit of this office—

1. What penalty can the authorities of any tribe in this agency inflict upon a post-master, United States citizen, who refuses to pay a tax to the revenue collector of the tribe for selling writing-paper, pens, pencils, newspapers, postage-stamps, &c., in his own post-office building? Is such a one under any treaty obligations to pay a tax to the tribe in which the post-office is located?

2. Is it, or is it not, a violation of the treaty with the Choctaws and Chickasaws for them to charge a revenue or collect a tax of two per cent. on the invoice price of all goods brought into their country by licensed traders, or to charge stock-buyers one per cent. on the amount of capital they use in the purchase of every shipment of cattle they make?

These questions are presented to this office, and I have deferred giving a decision until I receive department instructions.

3. Can any tribal authorities assess and collect a tax of a United States citizen, whether he be a merchant, mechanic, school-teacher, or farmer, unless such an assessment be approved by the United States Indian agent of said tribe?

An early reply to the above questions will be of service to this office.

Very respectfully,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT No. 10.

UNION AGENCY, INDIAN TERRITORY,
Muscogee, January 3, 1877.

SIR: I would most respectfully ask, for the benefit of this office, if the "permit law" of the Chickasaw tribe, as passed at the late session of their council, a copy of which is herewith inclosed, has received the approval of the President of the United States or of the Interior Department.

Complaints are being reported at this office against the laws, and I have expressed the opinion that it is in violation of treaty stipulations unless properly indorsed by the United States authorities. Am I sustained in this opinion?

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner Indian Affairs, Washington, D. C.

EXHIBIT No. 11.

EXECUTIVE OFFICE, CHOCTAW NATION,
January 31, 1877.

SIR: Inclosed find a transcript of an official letter of S. W. Marston, United States Indian agent, to certain citizens of the Chickasaw Nation named therein, to which I beg leave to call your attention. This decision is of course as applicable to the Choctaws as the Chickasaws, and to which I desire to enter my solemn and official protest for the following reasons, to wit:

1st. The above-named agent has transcended his authority.

2d. The spirit and enforcement of such a decision is in direct conflict with the rights, laws, and privileges of the Choctaws and Chickasaws as guaranteed in the seventh article of the treaty of 1866.

3d. The treaty of 1855 has no article 39. If the above-named agent made a mistake and intended to refer to the treaty of 1866, article 39, his decision fails of its application, for the reason that it has no reference to any class of persons but licensed traders, and if the agent had been informed, he would have known that that article was very materially altered by the amendment thereto. These Chickasaw petitioners represent a turbulent and minority element in their tribe with sinister motives, and represent their case falsely and unduly, and their reference to the treaty of 1866, article 43, is certainly no support to them or the

agent. The last-named article does not contemplate individual citizens of the Choctaw or Chickasaw Nation, it only refers to the nations as nations, legally organized communities, and gives no rights or powers to individual citizens of either tribe or nation.

The seventh article of the treaty of 1855 is plain, and gives the Choctaws and Chickasaws all the authority they need to enforce their laws if the United States agent will do his duty. In the latter part of this article where reference is made to "the assent of the United States agent is authorized to withhold or revoke his assent to the residing of unsuitable persons in the Indian country," even if such persons may have obtained the permission of the Choctaws or Chickasaws to reside among them. This is the first instance of my knowledge in which the United States Government has been so belittled by one of the Indian agents in intermeddling with the revenue laws of Indians.

The United States Government through her noble powers tells, and instructs, and advises us to educate and advance, but our Indian agent falsifies his government, and says to us, United States citizens among you can't pay you any taxes without his (my) consent; for which he has not a word of authority.

I ask you to remove this agent at once and appoint one who will represent the United States Government properly and encourage us to keep up with the age; and not encourage lawless persons with the idea that they may come here and evade the usual laws and customs of all governments.

Hoping to have your early attention to this matter and a favorable consideration, I have the honor to be,

Very respectfully, your obedient servant,

COLEMAN COLE,
Principal Chief Choctaw Nation.

To His Excellency U. S. GRANT,
President of the United States.

DEXTER, TEX., *January 30, 1877.*

HON. S. W. MARSTON,
United States Indian Agent:

I want your instructions as to how I can bring in men in the nation under the forty-third article of the treaty of 1866, between the United States and the Choctaws and Chickasaws, so as to not be intruders, at your earliest convenience.

Yours, with high regards,

R. H. L.

I do not know.

S. W. MARSTON,
United States Indian Agent.

True copy as printed.

OFFICE OF INDIAN AFFAIRS,
UNITED STATES UNION AGENCY,
Muscogee, Ind. T., January 18, 1877.

SIRS: In reply to your petition, I would respectfully inform you that the said law above referred to has never been submitted to this office for its approval as required by the treaty stipulations (see treaty 1855, article 39), and hence it is null and void. Furthermore, there is no law of any treaty allowing any Indian authorities to levy a tax upon the labor of United States citizens.

Very respectfully,

S. W. MARSTON,
United States Indian Agent.

TO P. R. GOLDSBY, B. F. COLBERT, AND OTHERS,
Petitioners to the United States Indian Agent of Union Agency for relief from the burden of a tax of \$25 imposed upon "white persons skilled in agriculture" (see treaty 1866, article 43) by the Chickasaw Legislature, and approved by the Principal Chief October 17, 1876.

True copy of the certified copy.

CHICKASAW PERMIT LAW.

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation, That citizens of any State or Territory of the United States wishing to live or rent land, or be otherwise employed in the nation, shall be required to enter into a contract with a citizen, said contract to be reported by the citizen to the county clerk of the county where said citizen resides.*

SEC. 2. *Be it further enacted, That citizens who shall employ any non-citizen shall supply, within fifteen days after entering into contract, to the clerk of the county where non-citizen wishes to reside, for a permit for every male non-citizen over the age of eighteen years in his employ, and for each permit so obtained the non-citizen shall pay to the clerk issuing*

the same the sum of twenty-five dollars, and the clerk shall retain for each permit issued twenty-five cents for his services, and shall report to the auditor and treasurer quarterly of all money received by him for permits, and, after deducting out his fee, shall pay the balance over to the treasurer for national purposes.

SEC. 3. *Be it further enacted*, That every foreigner who shall come into this nation for the purpose of farming or being otherwise employed, without the proper authority of the United States Government, shall be deemed an intruder by virtue of section 2134 of the Revised Statutes of intercourse law.

SEC. 4. *Be it further enacted*, That all licensed merchants and traders, non-citizens, shall, in addition to the tax paid on goods, be required to procure from the county clerk of the county in which they shall each pay twenty-five dollars, conditioned upon the faithful observance of the laws of this nation, and the clerk shall dispose of the funds in the manner prescribed in section 2 of this act.

SEC. 5. *Be it further enacted*, That no permit shall be granted for a longer time than twelve months, and in case of any violation of any law of this nation, the offender shall be ordered out of the Chickasaw Nation, and any citizen who shall employ a non-citizen for more than fifteen days without procuring a permit for the same, and shall be deemed guilty of misdemeanor, and be subjected to a fine of twenty-five dollars before the county court having jurisdiction, and all fines collected under this act shall go to the county treasurer for county purposes.

SEC. 6. *Be it further enacted*, That any non-citizen having entered into a contract with any citizen of this nation, and obtain a permit under his employ, and shall leave the employ of said citizen without his knowledge and consent, shall forfeit his permit, and no other permit shall be granted any non-citizen forfeiting the same by either clerk or either county of this nation.

SEC. 7. *Be it further enacted*, That any person living in this nation under permit shall not be allowed to bring into or hold more than five milch cows, and shall have no hogs outside of enclosure, but shall be allowed all the work horses, mules, and cattle as may be necessary to work said farm, and shall be allowed to feed surplus crop to beef cattle under fence.

SEC. 8. *Be it further enacted*, That all freedmen not owned by the Chickasaws or Choctaws at the date of the treaty of Fort Smith shall be required by the sheriff of the respective counties of this nation to procure permits as provided in this act.

SEC. 9. *Be it further enacted*, That all acts and parts of acts in conflict with this act are hereby repealed, and this act take effect and be in force from and after its passage.

Approved, October 17, 1876.

Please answer at your earliest convenience.

Yours, with high regards,

R. H. LOVE.

I am a Chickasaw and I want legal instructions how I can bring into the nation teachers, mechanics, and agriculturists, without being intruders; and who must I report to. I have employed the following names, white men and families:

J. P. CUSHMAN.
WM. DATY.
WM. SPEARS.
J. RIDDLE.
J. M. SHARROCK.
J. B. BRAWLY.
B. ELLISON.
P. STRICKLIN.
S. DRAKE.
WM. YOUNG.
J. BERRY.

B. HATHMAN.
A. G. MITCHELL.
B. L. APPELWHITE.
H. & B. O'NEAL.
F. KELMS.
J. HANKS.
B. DAVIS.
B. SMITH.
I. BIRD.
S. ANDERSON.
T. SHARROCK.

J. ADDINGTON.
Z. T. ADDINGTON.
J. MOSTILA.
J. NELMS.
W. JENNINGS.
T. JOHNSON.
W. CRASEBOLT.
R. HOLSOMBACK.
B. YOUNG.
L. BOWLES.

OFFICE OF INDIAN AFFAIRS, UNITED STATES UNION AGENCY,
Muskogee, Ind., T., January 18, 1877.

SIRS: In reply to your petition I would respectfully inform you that the said law above referred to has never been submitted to this office for its approval as required by the treaty stipulations (see treaty 1866, article 39), and hence it is null and void. Furthermore, there is no law of any treaty allowing any Indian authorities to levy a tax upon the labor of United States citizens.

Very respectfully,

S. W. MARSTON,
United States Indian Agent.

To P. R. GOLDSBY, B. F. COLBERT, AND OTHERS, *petitioners to the United States Indian agent of Union agency for relief from the burden of a tax of \$25 imposed upon "white persons skilled in agriculture" (see treaty 1866, article 43) by the Chickasaw legislature and approved by the principal chief October 17, 1876.*

EXHIBIT No. 12.

Permit law of Chickasaw tribe.

SECTION 1. *Be it enacted by the Chickasaw Nation*, That citizens of any State or Territory of the United States wishing to live or rent land, or be otherwise employed in this nation, shall be required to enter into contract with a citizen; said contract to be reported by the citizen to the county clerk of the county where said citizen resides.

SEC. 2. *Be it further enacted*, That any citizen who shall employ any non-citizen shall apply within fifteen days after entering into contract to the clerk of the county where said non-citizen wishes to reside for a permit for any male non-citizen over the age of 18 years in his employ; for each permit so obtained the non-citizen shall pay to the clerk issuing the same the sum of twenty-five dollars, and the clerk shall retain for each permit issued twenty-five cents for his services, and shall report to the auditor and treasurer quarterly of all moneys raised by him for permits, and after deducting out his fees shall pay the balance over to the treasurer for national purposes.

SEC. 3. *Be it further enacted*, That every foreigner who shall come into this nation for the purpose of farming or being otherwise employed, without the proper authority of the United States Government, shall be deemed an intruder, by virtue of section 2134 of the Revised Statutes of the United States.

SEC. 4. *Be it further enacted*, That all licensed merchants and traders, non-citizens, shall in addition to the tax paid on goods, be required to procure from the county clerk of the county in which they wish to trade, and all physicians, non-citizens, wishing to practice their profession, shall procure from the county clerk of the county in which they wish to reside, a permit, for which they shall each pay twenty-five dollars, conditioned upon the faithful observance of the law of this nation; and the clerk shall dispose of the funds in the manner prescribed in the second section of this act.

SEC. 5. *Be it further enacted*, That no permit shall be granted for a longer time than twelve months; and in case of violation of any laws of this nation, the offender shall be ordered out of the limits of the Chickasaw Nation; and any citizen who shall employ any non-citizen for a longer time than fifteen days without procuring a permit for the same shall be deemed guilty of a misdemeanor, and be subject to a fine of twenty-five dollars before the county court having jurisdiction; and all fines collected under this act shall go to the county treasury for county purposes.

SEC. 6. *Be it further enacted*, That any non-citizen having entered into contract with any citizen of the nation and obtained a permit under his employ, and shall leave the employ of said citizen without his knowledge and consent, shall forfeit his permit, and no other permit shall be granted any non-citizen forfeiting the same by either clerk of either county of the nation.

SEC. 7. *Be it further enacted*, That any person being in the nation under permit shall not be allowed to bring into or hold more than five head of milch-cows, and shall have no hogs outside of inclosures, but shall be allowed all the work horses, mules, and cattle as may be necessary to work said farm, and shall be allowed to feed surplus crop to beef-cattle under fence.

SEC. 8. *Be it further enacted*, That all freedmen not owned by Chickasaws and Choctaws at the date of the treaty of Fort Smith shall be required by the sheriffs of the counties of this nation to procure permits as provided in this act.

SEC. 9. *Be it further enacted*, That all acts and parts of acts in conflict with this act are hereby repealed, and this act takes effect and be in force from and after its passage.

[Copy.]

OFFICE INDIAN AFFAIRS,
UNITED STATES UNION AGENCY,
Muskogee, Ind. T., February 19, 1877.

SIR: I have the honor to inclose herewith a communication from D. H. Cooper, an adopted citizen of the Chickasaw Nation, with copy of "general permit law of the Chickasaw Nation."

An appeal some days ago was made by citizens of the Chickasaw Nation to this office relative to this law. I felt no hesitation in deciding, and did decide, that Indian nations had no right to impose and collect a tax of citizens of the United States.

As to jurisdiction over their own citizens I had nothing to say, though I doubt the policy or the propriety of taxing labor.

I respectfully refer the matter to you for your consideration, and ask that it be presented

to the Congress of the United States for such action as they may deem best, and at as early a day as practicable. In the mean time I await your instructions.

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner Indian Affairs, Washington, D. C.

FORT WASHITA, IND. T.,
February 12, 1877.

SIR: Herewith I have to inclose what purports to be an authenticated copy of the "general permit law of the Chickasaw Nation" published in the *Star Vindicator* of January 13, 1877, and to inquire what remedy will be afforded citizens of the Chickasaw Nation should the courts of said nation impose a fine under the provisions contained in section 5 of said law, for employing a non-citizen of the Chickasaw Nation for a longer period than fifteen days, without such non-citizen having paid the amount required by section 2.

The sheriff of this (Pinola) county a few days ago called and gave notice that the "general permit law of the Chickasaw Nation" would be enforced, and from what I can learn, your decision is disregarded by the authorities in both the Choctaw and Chickasaw Nations.

If it be violation of treaty stipulations to tax citizens of the United States, it would seem equally unlawful to fine Chickasaw citizens for employing them; and we trust you will at once take measures to restrain the Chickasaw authorities from imposing and collecting fines upon Chickasaw citizens for exercising a right secured to them under a treaty with the United States.

Very respectfully, your obedient servant,

D. H. COOPER.

Rev. S. W. MARSTON,
United States Indian Agent, Union Agency, Muskogee, Ind. T.

P. S.—If a case could be presented to the Supreme Court of the United States, having as it has jurisdiction in all cases arising under the treaties with the United States, no doubt an injunction might be obtained restraining the Chickasaw authorities from enforcing their permit law; but I do not see how the question can be brought before the United States court from the Chickasaw courts. But it would seem there ought to be power somewhere to prevent violations in the Indian Territory of rights secured by treaty to the citizens of the Indian nations, as well as to citizens of the United States; and possibly there may be time before the adjournment of Congress for such legislation under article 7 of the treaty of 1866 as will afford the necessary protection. A reply at your earliest convenience will much oblige many citizens of the Chickasaw Nation, whose farming operations are seriously injured by the attempted enforcement of the general permit law, so called, of the Chickasaw Nation.—D. H. C.

EXHIBIT No. 13.

UNITED STATES UNION AGENCY,
Muskogee, Ind. T., January 18, '77.

SIRS: In reply to your petition I would respectfully inform you that the said law above referred to has never been submitted to this office for its approval, as required by the treaty stipulations (see treaty of 1855, article 39), and hence it is null and void. Furthermore, there is no law of any treaty allowing any Indian authorities to levy a tax upon the labor of United States citizens.

I am, gentlemen, very respectfully, yours, &c.,

S. W. MARSTON,
United States Indian Agent.

To P. R. GOLDSBY, B. F. COLBERT, and OTHERS *petitioners to the United States Indian agent of Union agency, for relief from the burden of a tax of \$25 imposed upon "white persons skilled in agriculture" (see treaty of 1866, article 43) by the Chickasaw legislature and approved by the principal chief October 17, 1876.*

UNITED STATES UNION AGENCY,
Muscogee, Ind. T., March 30, 1877.

SIR: I am this day in receipt of the information from several sources that the chief of the Chickasaw tribe in this agency is raising or has already raised a military force of "25 men from each county, for the purpose of putting all white men out of the nation who do not take out his \$25 permit." In my letter of February 19 you will find a copy of the law passed by the last Chickasaw council, and inclosed is a copy of my opinion in regard to it, called for by a petition from prominent men of the Chickasaw tribe.

If I have committed an error in giving the opinion I did to the petitioners, I would like to be corrected.

It is also reported to this office that Governor Overton, while in Washington, obtained the approval of the \$25 tax-law of the Chickasaw council. I would most respectfully ask, for the information of this office, if this was so.

I understand that B. F. Overton was elected chief or governor by the full-blood element of the nation, under the pledge that he would have every white man removed out of the nation, and so when the council met last October the tax on United States citizens for working as farmers for the Chickasaw Indians was raised from 25 cents to \$25, as you may see by a copy of the law in my letter of February 19, 1877.

I consider this law unjust to the Indians who depend upon white labor for the cultivation of their farms, and if it be enforced I am afraid there will not be grain enough raised among the people this year for their own sustenance. Thousands upon thousands of acres that now under fence will be left to grow weeds instead of producing corn and cotton, as it would if the Indians could have the privilege of employing white men to work their land for them.

Hoping for information soon on which to base future action,

I am, very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT No. 14

UNITED STATES UNION AGENCY,
Muscogee, Ind. T., April 16, 1877.

SIR: I trust it may not be considered out of place for me to thank you for the charitable construction which you placed upon my erroneous opinion in regard to the tax-law of the Chickasaw Nation in your letter of March 23 to the honorable the Secretary of the Interior. It was truly, as you say, "an erroneous judgment upon a question of law." I refer to the opinion expressed in office letter of January 18, directed to P. R. Goldsby and J. R. Colbert, and others, citizens of the Chickasaw Nation, a transcript of which was sent to the department by Coleman Cole, chief of the Choctaw Nation, in a communication dated January 31, 1877.

I was influenced to entertain the opinion that "there is no law of any treaty allowing any Indian authorities to levy a tax upon the labor of United States citizens" too much, perhaps, by the opinions of others; for instance, the late Secretary of the Interior, the Hon. Z. Chandler, in a communication directed to T. C. Sears, esq., general attorney of the Missouri, Kansas and Texas Railway Company, dated April 13, 1876, says: "Whatever power is possessed by the Choctaw Nation to impose taxes must be derived from some treaty or act of Congress of the United States. The right to impose taxes is not a right which has heretofore been exercised or claimed by the Choctaw Nation, so far as I am advised."

Hon. William H. Clayton, district attorney for the western district of Arkansas, in a case before the court of that district, held last December at Fort Smith, said: "No power on earth save Congress could impose a tax on property of citizens of the United States in the Indian country," and this opinion was sustained by the court, Judge Parker on the bench.

Another consideration which influenced me to render the decision which I did was the temporal welfare of the Chickasaw people. The most of them who are being benefited by their rich soil depend almost entirely upon United States citizens for its cultivation, and I feared that if the latter were compelled to pay a tax of \$25 a year instead of 25 cents, as heretofore, they would leave the country rather than do it, and, as the result, much of the improved land would go unoccupied and the resources of the Chickasaw people be greatly diminished.

I write this letter not to justify myself in the opinion expressed to the Chickasaw delegation, but rather to mitigate the error I committed in so doing. I have given due notice to that delegation of my mistake, and have laid before them the opinion of the department on the question raised.

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT No. 15.

UNITED STATES UNION AGENCY,
Muscogee, Ind. T., April 28, 1877.

SIR: The petition of Chickasaw citizens herewith inclosed reached this office yesterday, and I transmitted it to the department for such action as may be deemed advisable.

I would, however, express the opinion that as the Chickasaw people have the treaty right of self-government, it might be well to let them learn the sad effects of their bad legislation by experience.

I learned by a messenger direct from the Chickasaw Nation yesterday that the chief, B. T. Overton, had desisted from the enforcement of the \$25 tax-law, and expressed himself as opposed to it. How true this is I cannot say.

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

To the Hon. S. W. MARSTON,
United States Indian Agent:

The petition of the undersigned citizens of Panola County, Chickasaw Nation, would respectfully represent unto the United States Indian agent, and through him to the authorities of the United States, that the legislators of the Chickasaw Nation in September last passed a law requiring all white men, citizens of the United States, renting land of, or being in the employment of citizens of the Chickasaw Nation, to take out a permit in the name of the citizens of the nation, and to pay for the same the sum of \$25.

We would respectfully represent to the agent that said law is very oppressive to the people of the nation, as many of the renters, non-citizens of the nation and citizens of the United States, are not able to pay the sum of \$25, and the citizens owning the farms are not able to pay the \$25 for the renters, and the governor of the nation is enforcing the said laws, to the great injury of the people of the nation as well as to the non-citizens.

We would also represent unto the agent that many of them rented their farms out last fall to citizens of the United States who took out permits in good faith under the old law requiring the payment of 25 cents for the same, the national secretary not having furnished the clerk of the court with a copy of the law of September, 1877; and we would respectfully ask of the United States Indian agent relief from the operation of said laws. We are aware that there is no way of obtaining relief except through the United States authority, and we would respectfully ask of the agent to take the necessary steps through the United States authority to cause the governor of the Chickasaw Nation to convene the legislature of the Chickasaw Nation, so that said law may be repealed.

We would call your attention to the treaty of 1866, allowing the employment of white men by the citizens of the nation; also to that clause of the treaty protecting the people from domestic violence, and also that clause of the treaty authorizing the Secretary of the Interior to have the council of legislation of the Choctaw and Chickasaw convene for the relief of the people; all of which is respectfully submitted.

LEM REYNOLDS.	WASH FINCH.
T. S. BARKER.	S. H. REYNOLDS.
J. R. MAUPIN.	W. H. BACON.
J. J. CRAVENS.	J. A. REYNOLDS.
BENJ. KENY.	J. C. MCCOY.
J. H. MASHBURN.	H. F. MURRAY.
CHARLEY EASTMAN.	JOHN LEWIS.
J. M. WEBB.	J. M. FRANKLIN.
D. W. COLBERT.	JASON SHOPAE.
CHAS. SHEA.	

EXHIBIT No. 16.

PAUL'S VALLEY P. O., CHICKASAW NATION, IND. T.,
May 21, 1877.

SIR: I have the honor to acknowledge receipt of your letter of 16th instant inclosing "copies of certain letters from citizens of the United States, in this nation, and inviting my attention to same, requesting me to report the facts concerning the alleged hardships inci-

dent to the collection of the \$25-tax imposed by my nation upon white persons not citizens thereof." In reply I have to state as follows :

I have only removed from the nation those who were not employed by citizens and who were considered, by respectable farmers and citizens, intruders. They either refused to pay the \$25-tax or said they could not do so. The only neighborhood where the tax was not cheerfully paid was that of Mr. R. H. Love, a citizen of the Chickasaw Nation, whose statement that the "removal of the intruders will cause a great deal of suffering" is entirely imaginary and for malicious effect.

Referring to statement of Rev. W. G. Davis, have to say that he is a farmer, and is now cultivating a farm; that the Rev. N. E. Parsons is the traveling minister for the Paul's Valley circuit. There are several gentlemen besides Mr. Davis who claim to be local preachers and missionaries, but who have cheerfully paid for their permits. Mr. Davis has also paid for his permit.

Upon the petition of citizens, I removed one D. R. Grabill, who occupied a small cabin *belonging* to a citizen, built by railroad laborers, and which had been abandoned by them. It was represented to me by the citizens that Grabill was a bad man and gave them much trouble. I offered Grabill transportation for his personal effects, which he refused, saying he would not remove them from the cabin, as he intended to return. I had them removed, attending to it personally. Nothing belonging to Grabill was taken or burned by my militia, and the value of his goods and chattels removed from the cabin did not exceed \$50. He, Grabill, is most worthless, and his statement is false.

You will doubtless receive and see from the newspapers exaggerated reports of my action in collecting the permit tax. I assure you that nothing has been done not warranted by the law which I have endeavored to execute.

I would respectfully refer you to Capt. H. H. Crews, Fourth United States Cavalry, Fort Still, Indian Territory, who accompanied me for three weeks, as to the above.

On my return to Tishomingo I will make a full and complete report to your office.

Very respectfully, yours,

B. T. OVERTON,
Governor.

Hon. S. A. GALPIN, *Acting Commissioner of Indian Affairs, Washington, D. C.*

EXHIBIT No. 17.

SKULLYVILLE COUNTY, CHOCTAW NATION, IND. T.,
June 13, 1877.

SIR: I write for information to know whether the communications between you and the principal chief of the Choctaw Nation in reference to the Choctaw permit law is true or not, and whether the Choctaw government has a right to tax the non-citizens of their nation or not. If they do we want to know it, for we don't want to pay a tax if they have no right to tax us.

Yours, respectfully,
Please address to

W. E. MARTIN,
James Fork P. O., Sebastian County, Arkansas.

The honorable COMMISSIONER OF INDIAN AFFAIRS.

EXHIBIT No. 18.

OFFICE OF INDIAN AFFAIRS,
UNITED STATES UNION AGENCY,
Muskogee, Indian Territory, June 18, 1877.

SIR: I would most respectfully submit the inclosed note from Dr. T. F. Ealy, our teacher of freedmen at Fort Arbuckle, concerning the demand of Governor Overton, of the Chickasaw Nation, of this office for \$25, as an annual tax levied by Chickasaw council upon United States citizens.

Shall I pay the tax for Dr. Ealy, who is an employé of the United States, or must he pay it himself, or is he exempt from taxation, according to the seventh article of the treaty of 1855 and article 43 of treaty of 1866.

This office asks for instruction as to the questions raised.
Very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

FORT ARBUCKLE, INDIAN TERRITORY, 6th, 2d, 1877.

DEAR SIR: Governor Overton called this week and said, "Tell the agent I demand \$25 of him for you." He said we have something to say in deciding where men shall locate.

If there is anything to come out of my pocket in this matter, write to me at once, and I will stop the school and leave the nation immediately. I get nothing for preaching. They rather owe me \$2,500 than that I should pay \$25 to remain. Please tell me. It's hard work in this corner.

Yours, truly and respectfully,

T. F. EALY.

Dr. MARSTON,
United States Indian Agent.

EXHIBIT 19.

DEXTER, COOKE COUNTY, TEXAS,
July 14, 1877.

SIR: On Sunday, June 24, 1877, B. F. Overton, governor of the Chickasaw Nation, in company of Nat Smith, came to the residence of Wyatt Windham, in Pickens County, and told him he was going to put me out of the nation. I told him I did not think he had the power, I had done no wrong; whereupon he said he would d—d soon show me, and told Smith to get him his gun. Smith said, "You have your pistol, and that is enough for Robert." I told him it was Sunday, that I had no way of reaching this place (distant 12 miles); he said he did not care, compelled me, gun in hand, coming into my room gun in hand. The consequence was I was compelled to submit, and was marched down to Bad River, leaving me 10 miles to walk through the burning sun and hot sand to this place; he then said I might come for my trunk. He says he was authorized from your department to put out any man he thinks fit. This is disputed here; they say the agent at Muskogee alone has the power to do so, and I have been advised by a Senator from the State to write to you explaining the circumstances.

My character will bear the strictest investigation. I came South with General Butler in 1862, and served to the close of the war under all the commanders of the Army.

Waiting your reply, I have the honor to be, your obedient servant,

W. C. ROBERT.

The honorable COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

EXHIBIT No. 20.

FORT SMITH, July 29, 1877.

DEAR SIR: A few weeks since I forwarded to you, through Rev. Mr. Marston, Indian agent at Muskogee, a statement and petition from the white families, non-citizens, residing in Skully County, Choctaw Nation, who are renters and are taxed \$17 a head, irrespective of property; they complain that this taxation is illegal and unjust and oppressive, and as they are threatened with immediate expulsion at a time when they had no money, and their crops have been "laid by," but are not yet matured, they ask some protection from you, in order that justice may be done, and that they are not robbed of their year's labor and forced to leave.

Hoping to hear from you at your earliest convenience on this matter,

I remain, sir, most respectfully, your obedient servant,

H. A. ROGERS,

Attorney at Law, Fort Smith, Arkansas.

Hon. CARL SCHURZ.

P. S.—If you have not received the petition, please take no steps to put petitioners out until Mr. Marston forwards it, as I can send a copy. The petitioners are ordered to remove in ten days, or the soldiers will eject them.

Yours, respectfully,

H. A. ROGERS.

EXHIBIT No. 21.

FORT SMITH, ARKANSAS, August 3, 1877.

DEAR SIR: I wish to call your attention to an order from Thomas J. Walls, sheriff of Skully County, Choctaw Nation, commanding all white men, non-citizens, to leave the

Choctaw Nation in ten days or pay him seventeen dollars. This tax is inordinate; it is also unjust and illegal, as it makes no distinction as to persons or amount of property taxed, and is contrary to treaty provisions. Please let no steps be taken by the military to eject our citizens until they can be heard, or at least until they can gather their crops.

Please answer by return mail, and let me know if petition and statement have reached you through Hon. W. H. Marston, and give us a respite.

H. A. ROGERS,
Attorney for Petitioners.

Hon. CARL SCHURZ,
Secretary of the Interior.

To the non-citizens of Skullyville County, Choctaw Nation, that has not complied with the Choctaw permit law, is hereby notified to fix up and move out of the limits of the Choctaw Nation within ten days, and forever remain out; and in case you do not move on your own accord, you will be put out by the military. My authority for this is good.

Given under my hand and private seal this the 28th day of July, 1877.

[SEAL.]

THOMAS J. WALL,
Principal Sheriff of Skullyville County, C. N.

FORT SMITH, ARKANSAS, 4th of 7th, '77.

DEAR SIR: Please stop this man, Thomas J. Wall, from proceeding further. He is acting the fool, and stirring up bloodshed and trouble, I fear. Please drop a note to Hon. B. W. Marston, at Muskogee, and tell him to go slow.

Your obedient servant,

H. A. ROGERS.

Hon. CARL SCHURZ.

EXHIBIT No. 22.

UNITED STATES UNION AGENCY,
Muskogee, Indian Territory, August 7, 1877.

SIR: Herewith inclosed I have the honor to transmit, by request of H. A. Rogers, esq., of Fort Smith, Ark., a statement of facts as represented to exist in Skullyville County, Choctaw Nation, in regard to United States citizens (see Exhibit No. 1); also a copy of a notice said to have been served on the non-citizens of Skullyville County (No. 2); also a copy of a letter addressed to this office in relation to the same matter (No. 3) by Governor Cole, of the Choctaw Nation.

It is clearly evident to my mind that Chief Cole would like the same privilege that was granted a few months ago to Governor Overton, of the Chickasaw Nation, namely, that of using United States soldiers with his light-horse in removing all persons, both black and white, from the Choctaw country who will not pay the tax enjoined by the permit law.

I would most respectfully ask, therefore, if Governor Cole can have the aid of the United States soldiers to remove from the Choctaw Nation such persons as he considers to be intruders? I ask for the governor's benefit, but at the same time I would in all sincerity, as I believe for the good of the Choctaw people, express the hope that no such aid be placed in the hands of Governor Cole.

The colored people, former slaves of the Choctaw people, do doubtless need protection in such rights as they are entitled to, and I would be glad if the Choctaw authorities could have their rights clearly defined.

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

FORT SMITH, July 1, 1877.

DEAR SIR: We, the undersigned citizens of the United States residing in Skully County, Choctaw Nation, respectfully beg leave to call your attention, through our agent, Hon. S. W. Marston, at Muskogee, Ind. T., to the following state of facts:

1st. We are all farmers and have rented or leased land in the said county of Skully, Choctaw Nation, for four to five years or more.

2d. Many of us have paid our rent in money; some are cropping on the shares, and some have taken places in the woods and cleared as much as seventy acres of land, and erected houses, stables, and fences, with the full understanding that we were to occupy the premises until paid for in rent at a reasonable rate.

3d. That none of our leases have yet expired, and our crops are growing and not ready to be gathered—oats, corn, and cotton; and therefore all of us, being men in moderate circumstances, find ourselves almost entirely without money at this season of the year.

4th. We state that a tax of \$17.50 has been levied or assessed by the council of the Choctaw Nation against all heads of families of whites living in their country.

5th. That said tax is now being collected, and the collection thereof is being enforced against us, and if we do not pay it on demand expulsion and confiscation are threatened against us by one Thomas Walls, who claims to be the sheriff of Skully County (which we deny, as we claim he has never given bonds or received authority from Hon. Nathaniel C. Newles, judge of the county court of Skully County aforesaid, to collect any tax as required by law), although some three or four of us have paid \$14.50 in order to avoid trouble.

6th. We claim that said tax is unreasonable and exorbitant, as it does not tax a man according to his property, but according to his marital relations, which we deem unheard of and unconstitutional, as they tax neither privilege, property, or occupation.

7th. We are not able to pay this tax, and are injured by it, as no one will work for or with us while it remains discretionary with the said council to tax us any amount from \$1 to \$1,000 and upward without limit. Nor can we dispose of our leases or have our cotton picked unless we can get from our government some assurance that we will be protected from the inordinate and blind avarice of those Choctaw law-makers.

8th. Wherefore we pray that such steps may be taken by your honor as will bring about this end and cause the said Thomas Wall to stop said collections and repay the money which he has collected from us; and we will ever pray, as in duty bound.

W. B. NOLEN.	S. H. HICKMAN.
A. J. ALLEN.	JOHN KETCHUM.
THOS. MARTINDALE.	H. N. GREEN.
H. H. TALLEY.	S. HALGER.
J. P. KETCHUM.	J. J. JONES.
T. J. COWARD.	C. C. PAYNE.
E. McDONALD.	T. J. ACTHERLY.
G. R. MOORE.	GEROME ACTHERLY.
HENRY CHORISTER.	JOHN HAMES.
WILLIAM MOORE.	W. B. MASSE.

Hon. CARL SCHURZ,
Secretary of the Interior.

STATE OF ARKANSAS,
County of Sebastian:

Personally appeared before the undersigned authority, A. J. Allen and Henry Chorister, two of the above-named petitioners, who, being by me duly sworn, state that these facts set forth in the foregoing petition are true, and that they are personally acquainted with all of the parties whose names are signed thereto, and that they had full authority to sign them, and that they all live near Page's Ferry, Skully County, Choctaw Nation, and are farmers.

A. J. ALLEN.
HENRY CHORISTER.

Sworn to and subscribed before me this July 1, A. D. 1877.

STEPHEN WHEELER,
Clerk United States District Court, Western District Arkansas.

Please direct your answer to our attorney, H. A. Rogers, Fort Smith, Ark., and oblige,
Your obedient servants,

A. J. ALLEN.
HENRY CHORISTER.

Hon. S. W. MARSTON:

DEAR SIR: Please forward this to the department. I have submitted it to Hon. J. N. Parkers, judge, and by answering you will oblige,
Your obedient servant,

H. A. ROGERS.

NOTICE.

To the non-citizens of Skullyville County, Choctaw Nation, that has not complied with the Choctaw permit law, is hereby notified to fix up and move out of the limits of the Choctaw Nation within ten days, and forever remain out; and in case you do not move on your own accord, you will be moved out by military force. My authority for this is good.

Given under my hand and private seal this the 28th of July, A. D. 1877.

THOS. J. WALL,
Principal Sheriff of Skullyville County, Choctaw Nation.

CHOCTAW NATION, EXECUTIVE DEPARTMENT,
Atoka, July 16, A. D. 1877.

DEAR SIR: In reply to yours of the 2d day of July, 1877, in regard to 111 white intruders in Skullyville County, C. N., to which they have ask it heretofore for their immediate removal. Now, you want me to try the civil officers of this nation if they will go out willingly. Now, if they should resist, and try to fight the officers of this nation, like A. G. Flinchman and his family, Leonard Asber and his family, Ben Betts and his family, Joseph Parker, Chalam and three others, their names not known—now, in case of this kind or such struggle, will you help me with your military force? Please let me know at once, if you will do it. So you will oblige your most friend, &c. I am in duty bound, ever pray.

I have the honor to be, your humble servant,

COLEMAN COLE,
Principal Chief Choctaw Nation.

Maj. S. W. MARSTON,
United States Agent, Indian Territory.

EXHIBIT No. 23.

CHOCTAW NATION, EXECUTIVE DEPARTMENT,
Atoka, September 24, 1877.

SIR: I am in receipt, through S. W. Marston, United States Indian agent, of a copy of your communication to him of the 3d instant, referring to a decision of the Secretary of the Interior of the 27th ultimo, upon the validity of the permit law of the Chickasaw Nation, which Governor Overton attempted to enforce upon one T. F. Ealy, teacher of the freedman school at Fort Arbuckle, to the amount of \$25.

It is strange that so exalted an officer of the United States Government as the honorable Secretary of the Interior should commit the government to a decision on April 2, and then upon the 27th of August of the same year decide the reverse.

There is a manifestation of rashness, hastiness, and instability entirely foreign to the character of the honorable Secretary, and very unusually characteristic of any high public functionary. The facilities and sources of information for the honorable Secretary were as good in April as in August.

I propose to make no objections as to the particular case of Dr. T. F. Ealy, but when the honorable Secretary is induced to make the sweeping declaration that neither the Choctaws nor Chickasaws have any authority to pass or to enforce a law upon the subject of taxation except under the provisions of article 47 of the treaty of April 28, 1866, &c., my official capacity and my manly consciousness alike demand that I take issue with him.

The honorable Secretary could not have examined that forty-seventh article with much care or thought, or he would have seen that contingency none the less uncertain, yet that treacherous proviso, and that condition yet unfulfilled. He would have seen that the only thing which can give it even a name is the survey and assignment of the Choctaws and Chickasaws and other Indians' and negroes' lands in severalty.

The honorable Secretary ought to know this has not been accomplished. The Secretary should be informed that no application has been made by the respective legislative council of the Choctaw and Chickasaw for their invested fund and trust funds in the hands of the United States Government, to be capitalized or converted into money, that these funds have not been converted into money, and consequently no division and payments made *per capita* to the individuals thereof respectively.

Without the fulfillment of the first part of that forty-seventh article the proviso is no more value than the same amount of blank paper.

The honorable Secretary may as well know that not only the forty-seventh article, but many other articles of the treaty of 1866, possess no force under the present holding of Choctaw and Chickasaw lands in common.

Articles 3 and 11, and many other articles and parts of articles of the same treaty, have conditions introduced into them which destroy their force entirely. But, for the sake of argument, let us assume that the proviso of that forty-seventh article is law and treaty; when the taxation is introduced it must have an object; now, what is that object in the forty-seventh article? An individual of dull perception cannot fail to see that it is the lands of Choctaw and Chickasaw country, and that no other kind of taxation is even implied. Why restrict Choctaws and Chickasaws, says you, to the satisfaction of the President of the United States in the matter of taxation upon lands in their own country, evidently for the protection of the negroes and Kansas Indians, whose tenure of lands is presupposed in the proviso. Land office was to be established in the Choctaw territory, at Boggy Depot, to give Indians and negroes land and patent to stay on it and cultivate the soil for twenty-one years before they could get their fee-simple title to their lands.

The honorable Secretary will follow us to article 10 of the treaty of 1866; we will find an article that will do to rest on, and one which points us back to the previous treaties; and we have to go no further back than article 7 of the treaty 1855, where we find no treacherous proviso to stumble over; where we find out what an intruder is and what is to be done with him; where we find that the duties of all parties concerned, or all who may become concerned, are marked out in plain and unmistakable language.

The honorable Secretary's construction of the forty-third article of the treaty of 1866 makes it impossible to tell who is an intruder. The latter part of this forty-third article reads as follows: "But this article is not to be construed * * * 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 said nations." The question arises here, What are the works of internal improvement? Are not the employment of skilled laborers, agricultural and mechanical, the building up of school, the opening up of farm, the operating of the mines, &c., all works of internal improvement? No one will say to the contrary, and yet the honorable Secretary would dictate a limitation to our rights.

From the further fact that the word "temporarily" is thrown in between the employment of white persons who are teachers, mechanics, or skilled in agriculture, shows that there was some limitation intended upon their indiscriminate and permanent employment.

The Choctaws and Chickasaws both have had permit laws for many years, and with the knowledge and assent of the different United States Indian agents. Another potent reason why the honorable Secretary's rendering of that forty-third article will not do, is that it makes distinction among persons on account of color, in direct variance with the spirit of the fourteenth amendment to the Constitution of the United States. Our rendering shows that this distinction of color was made in deference to the rights and wishes of the Choctaws and Chickasaws; to their rights, because they were allowed to exercise choice as to whom they would permit to come in among them, and to their wishes, because it was well known that they desired to get rid of the negroes who were already among them.

No good citizen will object to contributing his equitable share of support to the government of the country in which he lives. The vicious, lazy, improvident, and otherwise unworthy, labor most to elude this duty of contribution to government, and yet these are the classes whom the honorable Secretary has publicly invited to come and live among us; above all men, those whom we do not want.

We cannot believe the honorable Secretary is properly represented in the decision of August 27, and we beg of you, sir, to press this matter upon the honorable Secretary again, and get back to your generous, candid, and gracious decision of March last. I have the honor to be,

Your humble servant,

COLEMAN COLE,
Principal Chief Choctaw Nation.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

P. S.—I am pressed in my mind, and like to hear from you very soon, if possible.

C. COLE,
Principal Chief Choctaw Nation.

EXHIBIT No. 24.

OFFICE OF INDIAN AFFAIRS,
UNITED STATES UNION INDIAN AGENCY,
Muscogee, Ind. T., October 8, 1877.

SIR: I have the honor to refer, most respectfully, to the department the inclosure from Mr. J. D. Harris, a prominent Chickasaw Indian, who was president of the national senate in 1867, and for many years treasurer of the nation, for your information, and to ask instruction:

1. Have not Chickasaw Indians the right to employ persons "skilled in agriculture" without a permit from their own or the United States authorities?

2. Has the United States agent a right to grant permits to such persons, irrespective of the authorities of the Chickasaw Nation?

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Agent.

Hon. E. HAYT,
Commissioner of Indian Affairs, Washington, D. C.

POST-OAK GROVE POST-OFFICE,
Chickasaw Nation, October 4, 1877.

SIR: I would most respectfully represent that B. F. Overton, governor of the Chickasaw Nation, says he won't recognize the late order of the Secretary of the Interior, declaring the late permit-law taxing white labor \$25 each, and in an informal speech (outside of legislative hours) that he wanted no change in the "permit-law," and that if the people would back him with means and their influence he would still collect the \$25 permit-tax; further states that the governor never laid the decision of the Secretary of the Interior before the legislature for their action.

Therefore, in absence of law, appeal to you as United States Indian agent for protection, and ask for three permits: one for E. M. Powers, J. C. Forney, and David Crittendon, all white men and citizens of the United States, as farmers in my employ. I have had them in my employ for the past three years, and they are honest, peaceable, and law-abiding men, and suitable persons to remain in the nation.

I would further state that I am a cripple, not able to work, and my only support for myself and family is from my farm.

If there is any protection under the treaty, for me, as a citizen of the Chickasaw Nation, from the United States, protecting me in my rights won't it? If none, I want to know it, and respectfully ask you, as United States agent, for information.

Very respectfully,

J. D. HARRIS.

S. W. MARSTON,
United States Indian Agent, Muscogee, C. N.

EXHIBIT 25.

OFFICE OF INDIAN AFFAIRS,
UNITED STATES UNION INDIAN AGENCY,
Muscogee, Ind. T., October 8, 1877.

SIR: I am requested by Wm. C. Edwards, a renter in the Chickasaw Nation, to forward to the Hon. the Secretary of the Interior the inclosed communication, relative to the refunding to him by the Chickasaw Nation the \$25-tax which was collected of him under the so-called permit-law.

There seems to be a general inquiry among those who have been forced to pay this tax, to know if they are to be reimbursed or not, and I am of the opinion that such information would, just at the present time, be of value to all parties interested.

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Agent.

Hon. E. A. HAYT,
Commissioner of Indian Affairs, Washington, D. C.

BOGGY DEPOT, C. N., *October 4, 1877.*

DEAR SIR: I am a citizen of the United States, and at present farming in the Chickasaw Nation. In addition to the rent I pay to Chickasaw Indian to farm his land, which is one-third of the corn I raise, and one-fourth of the cotton, I was required to pay a tax or permit to the nation of \$25. I understand that you have decided that tax illegal. Please let me know if I can get the money, \$25, back from the nation, or whether the nation will be expected to refund it or not.

Very respectfully, your obedient servant,

WM. C. EDWARDS.

Hon. CARL SCHURZ,
Secretary of the Interior.

(Through Dr. S. W. Marston, *United States Indian Agent,*
and Hon. J. Q. Smith, *Commissioner of Indian Affairs.*)

EXHIBIT No. 26.

COLBERT STATION, IND. T., *November 2, 1877.*

HONORABLE SIR: I own and operate a ferry on Red River, on the main thoroughfare between the Northwestern States and Texas, for which I have a charter from the State of Texas and the Chickasaw Nation. I am a citizen of the Chickasaw Nation by blood. I desire to know if the authorities of the Chickasaw Nation are competent to enact a law requiring me to pay a permit-fee for hands necessary to operate said ferry? Last spring it was necessary for me to become surety for my ferryman to prevent him from being removed for want of a \$25 permit. Governor Overton says he will enforce the law; I am willing to pay it if right.

There appeared in the papers in September last what purported to be an opinion from the Interior Department, setting aside the permit law of the Chickasaw legislature; hence I desire to know whether I have it to pay for ferryman. For character and standing I respectfully refer you to Hon. Messrs. Maxey and Throckmorton of Texas. I hope you will condescend to notice this, though it may be somewhat out of the usual mode of transacting business with you.

Hoping to hear from you at your earliest convenience, I remain, your obedient servant,
B. F. COLBERT.

Hon. CARL SCHURZ,
Secretary of the Interior, Washington, D. C.

EXHIBIT No. 27.

OFFICE OF INDIAN AFFAIRS,
UNITED STATES UNION AGENCY,
Muscogee, Ind. T., November 8, 1877.

SIR: I herewith respectfully transmit a petition or memorial from certain individuals in the Chickasaw Nation, said to be numbered among the most prominent and influential members of the tribe.

I also submit with it the communication transmitting the same to this office, with several letters which have been received of late from various persons in the Chickasaw Nation relative to the so-called "permit-law" of the Chickasaw authorities.

These several papers seem to indicate that Hon. B. F. Overton, the Chickasaw governor, does not recognize the authority of the United States Government as set forth in a communication of the Hon. the Secretary of the Interior to the Hon. Commissioner of Indian Affairs, dated August 27, 1877, a copy of which, with the instructions of the Hon. Commissioner of Indian Affairs, as set forth in department letter of September 3, 1877, was furnished to Governor Overton from this office September 18, 1877.

I am informed, upon what I consider good authority, that Governor Overton is going to Washington with his delegation, among other things to bring influences to bear upon the Commissioner and Secretary to enable him to go on and enforce the so-called permit-law of the Chickasaws; and failing in that, to re-assemble the legislature on his return and recommend the passage of a bill to enforce a fine of \$100 (instead of the \$25, the present law) on all Chickasaw citizens who employ United States citizens without paying the tax.

The governor, I understand, will start for Washington in a few days, and when he arrives will doubtless be able to explain the whole matter better than I could possibly do by writing.

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Agent.

Hon. E. A. HAYT,
Commissioner of Indian Affairs, Washington, D. C.

TISHOMINGO CITY, *October 19, 1877.*

To S. W. MARSTON,
United States Indian Agent, Muskogee, C. N.:

Inclosed find a memorial to the President of the United States, which you will please endorse and forward through the proper channel, and, if consistent, make such notice and recommendation that will insure an early reply.

Governor Overton still persistently adheres to the so-called permit law, and has the judiciary and legislative branches of the government under his complete control, and we can expect no redress, only from United States authority, in protecting us. All we ask is labor to work our farms.

The permit law stands unchanged on the statutes of the Chickasaw Nation, and it will be the policy of the judiciary to enforce it on the citizen, requiring him, under execution, to pay \$25 every two weeks. He may have a United States citizen in his employ without procuring permits. Think the removal of white men still an open question with the governor. It seems to be the policy to tax the citizen, so that it will drive the white labor from the country.

If the white labor is driven from the country the fine farms in this nation will go back to wild land, no stock grazing on it, and the result must follow that invested funds held by the United States must be sold to buy bread for this people (like three years ago), thereby destroying and crippling both national and school fund of this people. The majority of the citizens of this nation are dependent on their farms for support, stock all gone, and that is their only resource for a living, except those who are officers of the nations, who receive their salaries from the *public crib*.

Respectfully, &c.,

G. W. HAWKINS.
G. D. JAMES.
J. D. HARRIS.
W. H. BOURLAND.
ROBT. H. LOVE.
S. D. JAMES.

CHICKASAW NATION, INDIAN TERRITORY,
Tishomingo City, October 29, 1877.

To his Excellency R. B. HAYES,
President of the United States :

We, your memorialists, citizens and residents of the Chickasaw Nation, Indian Territory, would most respectfully represent that on the 27th day of August, 1877, the honorable Secretary of the Interior, did render his decision, declaring that the late so-called "permit law" of the Chickasaw Nation, approved October 17, 1876, was null and void, and that "all proceedings under it must cease."

A copy of the permit law, herewith annexed and marked A, and ask to become part of this petition, and that said order of the honorable Secretary of the Interior was forwarded by the honorable Commissioner of Indian Affairs on the 3d day of September, 1877, to S. W. Marston, United States Indian agent, directing him to notify the Choctaw and Chickasaw authorities of the decision, and to inform them that the department expects their prompt and strict compliance therewith. The United States agent forwarded the order of the honorable Secretary of the Interior more than one time to B. F. Overton, governor, ordering him to lay it before the legislature, then in session, which he failed to do, and continued to do, until the legislature adjourned, leaving said "so-called permit law" on the statutes of the Chickasaw Nation.

Would further represent that the governor, B. F. Overton, did state, in a speech at an informal meeting outside of legislature hours, that he would pay no attention to the late Secretary of the Interior order, and that if the legislature would back him with the means and influence he would enforce and collect the \$25 permit tax, and asked that the "permit law" remain as it was.

We would further represent that under the forty-third article of the treaty of 1866 between the United States and Choctaw and Chickasaw tribes of Indians, has the right to employ mechanics, millwrights, and men skilled in agriculture, and we are in favor of a reasonable registration fee, but claim that this nation has no right under said treaty to levy a tax of \$25 on United States citizens for farming when they can pay their employer the usual rents of the states, and that said land being held in common, each and every one can cultivate as much land as he may see fit; and would further state that under the so-called "permit law" that taxation has not been equal, and most respectfully but earnestly request that the United States Indian agent be instructed and directed, with full power to send for persons and papers, and to investigate the same, or some special agent be appointed for that purpose, that justice may be done to all persons concerned.

Your memorialists would most respectfully ask that your excellency will make such rules and regulations in conformity to treaty and intercourse law for the protection of the farming interest of this nation and public improvements, both national and private, in this nation not inconsistent with the treaty.

We further ask that the status of the United States citizen, who has married or been adopted under the seventh article of the treaty of 1855, or thirty-seventh article of the treaty of 1866, be defined by proper authority. Since the treaty of 1866 all white men who have intermarried or been adopted under the provision of said treaties have enjoyed all the rights, privileges, and franchise of a native-born citizen in this nation, until the last session of the legislature refused two white men, who were duly elected by the people and were properly authenticated, from taking their seats in the legislature (while one of them had served as representative for several years in that capacity), alleging they were white men, although

domiciled under the treaty, had no franchise, while other white men holding offices under the government respectfully claim them as *bona fide* citizens under the treaties and ask their status to be settled by the proper authority of the United States, that its operations may work equal on all.

In conclusion, your memorialists would further state, that we wish no change of government than we now have, and wish all treaty stipulations and acts of Congress for the protecting of Indians be carried out in good faith; and further, that this people are fast becoming an agricultural people; the herds of cattle, hogs, and horses are fast giving away, and the masses of the people are pursuing farming for a support. If labor is cut off from us, the many fine farms now in cultivation in this nation must become wild lands again and the invested funds we now have in the hands of the United States must be sold to buy bread, like we did three years ago; and believing we can't receive protection under the present administration now in power in this nation, who pay no regard to the constitution, laws of this nation, treaty, or proper authority of the United States, most earnestly but respectfully appeal to Your Excellency, as President of the United States, to make such rules and regulations for our better protection, in conformity to treaties and justice, for which we shall ever in duty bound to pray, &c.

LEM REYNOLDS,
Senator Chickasaw Nation.
J. A. REYNOLDS,
Member House Representatives.
CHARLEY SHECO,
Member House Representatives.
SIMON KEMP,
Member House Representatives.
C. A. BUSSIS.
J. D. HARRIS.
J. C. McCOY.
AMOS TOW-WAS-TUBBY.
R. M. HARRIS.
ALBERT MCKINNEY.
ALEX. CRAVAT.
GEO. W. HAWKINS.
JAMES ALLEN.
W. H. BOURLAND.
ROBERT H. LOVE.
G. D. JAMES.
S. D. JAMES.

OCTOBER 8, 1877.

KIND SIR: I am a citizen, married here, according to the laws and regulations of the Chickasaw Nation; have my brother in my employment as a farmer, and I want a permit for him. He has been notified since the legislature adjourned to pay \$25 or leave the nation, or they would put him out. So I write to you to give me a permit for him. His name is Gregory Bean. Write soon, for I am needing him.

Direct to Tishomingo, and oblige,

MRS. NETTIE SELF.

Mr. S. W. MARSTON.

STONEWALL, C. N., IND. T.,
October 23, 1877.

To the United States Agent:

I am a wagon-maker by trade, and have been residing here for the past three years, striving hard with industry and economy to make an honest respectable living.

I have just been notified by the sheriff of this county that I must either take out a permit, for which they propose to make me pay \$25, or they will put me out of the nation.

I consider myself a law-abiding man, but have been told that such is not the law. I have also been told that by applying to you you would give me a permit to remain to carry on my business. If you can do so you will much oblige me. I refer you as to my character to C. C. Rooks, Thomas Phillips, William Bird, all merchants and well-known business men of this place, as to my character.

Respectfully,

JOSEPH GARNETT.

STONEWALL, C. N., 10th, 23, 1877.

DEAR SIR : I write you concerning the permit law of this country. I have applied to the proper officers for a permit, and they will not issue me any, unless I pay them \$25. I have been ordered out. Now sir, I understand that the permit law of this country is null and void, and that you have made the assertion that the Chickasaw authorities have no right to collect the so-called permit from white men now residing in this country. Now, what shall I do? Will you send me a permit, as I cannot obtain one from the Chickasaw authorities, unless I pay them \$25.

I am now in the employ of C. C. Rooks, of this place; I have lived here about two and a half years. I am a man of limited means, and do not feel disposed to pay \$25, if it is unlawful.

Write me what I must do in the matter. I suppose if the Chickasaws will not grant me a permit, that you will, as I am not charged with any violation of the laws of this country. As to my character, I will refer you to C. C. Rooks, T. J. Phillips, W. L. Byrd, and L. B. Cochran, all of this place.

Respectfully,

JOHN D. HIGGINS.

S. W. MARSTON,
United States Indian Agent, Muskogee, C. N.

STONEWALL, C. N., October 24, 1877.

DEAR SIR : Please send me a permit to stay in the Chickasaw Nation. I am a stone mason, and would like to stay in the country, but they will not give me a permit, unless I pay them \$25.

Please send it at once.

Respectfully, yours,

THOMAS JONES.

Mr. S. W. MARSTON,
United States Indian Agent.

STONEWALL, IND. T., October 24, 1877.

DEAR SIR : I am a blacksmith, and have been doing work here for over three years. I have a wife and four children, and I about make a good living for them. The Chickasaw authorities told me yesterday I must pay a tax of \$25 or leave the nation. Now I am not able to pay such amount as that, and it is impossible for me to move at present, so I earnestly request of you to send me a permit at once if you please.

I can't hardly support my family and pay such an extortionate tax as \$25. I think the United States ought to protect her citizens here as well as in foreign countries.

Respectfully, your friend,

MOSES THORP.

S. W. MARSTON,
United States Indian Agent, Muskogee, Ind. T.

STONEWALL, IND. T., October 24, 1877.

DEAR SIR : The sheriff came to me to-day and told me that I must pay 1 per cent. on all the goods I bought in the nation, and that I must get a permit to remain in the country, \$25, and that he would only give me five days to do it in. You say this law is null and void, and action under it must cease; yet they come and force me to comply with it.

Can't you give me a permit? If you can, please send it. I will not comply to such illegal demands as the Chickasaws require.

There is a good many farmers here that will be compelled to leave on account of not being able to pay a tax of \$25. Many of them has large crop of wheat sown.

You are certainly higher authority than those Indians, and you say this law is null and void, and must cease.

Please write to me and let me know why it does not cease.

Respectfully,

HILL PHILLIPS.

S. W. MARSTON,
United States Indian Agent.

WHITE BEAD HILL, October 31, 1877.

To the agent of the Indian Nation :

SIR : Governor Overton says that he will collect the \$25 permit until stopped by the United States. We want to know how to act, and what you will defend us in the condition of the matter. You know how you are going to act and how far you are going to let them go. I am reliably informed that the sheriff of Pantotact County and the light horseman is out collecting permits authorized by the governor. I hope that you will accommodate us with a letter as soon as you get this letter.

Here is the names of the citizens of our neighborhood : L. F. Casan, Charles Hulsey, Charles Winter, R. C. Florence.

Write to White Bead Hill, Ind. T., C. N.

EXHIBIT No. 28.

UNITED STATES SENATE,
Washington, D. C., January 21, 1878.

SIR : I inclose a letter addressed to you, but sent to me for delivery ; as requested, I have made myself familiar with its contents. In your letter to the Commissioner of Indian Affairs of date the 27th of August last, in reviewing the question of the right of the Chickasaw Nation of Indians to tax white men who were employed by Indians to work on their farms, you used this language : "Without entering upon a discussion of the law of taxation, I concur in the opinion of my predecessor, that the forty-seventh article of the treaty of 1866, prescribes the only mode by which a system of taxation can be adopted by either of said nations ; and that until the provisions of that article are complied with, neither of said nations have any authority to pass or enforce a law on that subject."

A copy of this letter with the instructions of the Commissioner were furnished the chiefs of the Choctaw and Chickasaw Nations ; since then, however, the Chickasaw council has passed a law taxing members of the Chickasaw Nation \$25 for every white man they employ who is not a member of the tribe. This, it seems to me, is in plain defiance of your instructions, and the provisions of the forty-seventh article of the Choctaw and Chickasaw treaty of 1866. I understand that the Chickasaw law, as it now stands, taxes every member of the tribe \$25 for every laborer, and if they do not pay that amount within fifteen days, they double the tax and keep on doubling it for every fifteen days' failure. This works a special hardship on widows whose only resource is the product of their farms.

I respectfully call your attention to this matter, and hope you will find some way to remedy the evil.

Very respectfully,

D. W. VOORHEES.

Hon. CARL SCHURZ,
Secretary of the Interior.

COLBERT'S STATION, CHICKASAW NATION,
INDIAN TERRITORY, January 9, 1878.

SIR : I am a white man and a citizen of the United States. For the last ten years I have been living in the Chickasaw Nation cultivating land for different citizens of this nation. I am at present working on the farm of Mr. A. G. Long. I have six children ; my wife died a few weeks ago, and is buried in the nation. A year ago the Chickasaw council passed a law taxing every white man who worked upon the farm of a Chickasaw, \$25 a year ; this in effect would prohibit the employment in this nation of white labor. It worked a great hardship upon persons like myself who were living here with their families, and who were not able to pay year after year the unreasonable permit for themselves and others whom they might employ to assist them in saving their crops.

The question was submitted to your department, and you decided that this tax law was null and void. Yet, since your decision, Governor Overton boasts that he has compelled white men to pay the tax in spite of you ; and he declares that if he is prevented from enforcing the tax from white men, he will compel Chickasaw citizens to pay \$25 for every white person they may employ to work on their farms.

I respectfully ask if Governor Overton is to be permitted to thus set at naught the official rulings of your department ; and if I, and hundreds of others like myself, who are rightfully here cultivating the soil, can be driven out of the Territory, because we or our employers are unable to pay \$25 tax a year.

I send this through Senator Voorhees of Indiana, who I know will take an interest in the bond working farms in this country.

Very respectfully,

J. W. ROGERS.

Hon. CARL SCHURZ,
Secretary of the Interior.

EXHIBIT No. 29.

CHOCTAW NATION, EXECUTIVE OFFICE,
Atoka, January 10, 1878, Ind. T.

SIR: Herewith inclosed, find a copy of a resolution of the general council of the Choctaw Nation authorizing me to get the decision of the Hon. Secretary of the Interior of August 27, 1877, upon the validity of the permit laws of the Choctaw and Chickasaw Nations set aside or rescinded.

The permit laws of the Choctaw and Chickasaw Nations prescribe the terms and conditions upon which white persons may enter the said nations and remain or be temporarily employed therein.

Also, inclosed find a copy of a communication addressed by me to the Hon. Commissioner of Indian Affairs in September, 1877, protesting against said decision of the Hon. Secretary of the Interior, and to which, so far as I know, no notice has been taken.

Now, sir, I appeal to you as the supreme arbiter, through whom we hope and believe our grievances will be heard and redressed. I invite your attention to the inclosed communication to the Commissioner of Indian Affairs, with the confidence that you will find our reasoning good and legal, and besides, I desire to supplement herein with a few additional points: but before going further, I desire to refer you to the report of the Commissioner of Indian Affairs upon this subject of March 23, 1877, and the adoption of said report by the Hon. Secretary of the Interior of April 2, 1877, as well as the decision of the Secretary of August 27, 1877, to which latter we so seriously and earnestly object.

We believe that the Commissioner of Indian Affairs, in his report or decision of March 23, 1877, took the correct, legal, manly, independent, and treaty view of the subject. If my rendering of the forty-third article of the treaty of 1866 as to white persons is not correct, it is strange that at that date, when the public sympathy of the United States Government was so strongly in favor of the freedmen or colored people, the United States Senate and President Johnson should have ratified the said treaty of 1866.

The honorable Secretary of the Interior either boldly arrays himself against the general interpretation of the fourteenth amendment to the Constitution of the United States, or he as boldly overrides our treaties, one or the other. The treaties are as sacred to us as your Constitution is to your people. All we ask is a proper observance of our treaties, and we believe the general and public feeling of the people of the United States is in favor of; but we mourn the fact that public officials can be privately influenced so unduly to commit their government to errors.

With the hope that your Excellency will order the matter in controversy investigated thoroughly, and reported upon according to law and treaties, and set the matter at rest forever, and have me duly informed, I am most respectfully,

Your obedient servant,

COLEMAN COLE,
Principal Chief, Choctaw Nation.

His Excellency R. B. HAYES,
President of the United States, Washington, D. C.

 BILL No. 17.

A RESOLUTION authorizing the principal chief to attend to the permit business.

Be it resolved by the general council of the Choctaw Nation assembled, That the principal chief is hereby authorized to correspond with the President of the United States and the department at Washington, and try and get a late decision of the Secretary of the Interior in regard to permits set aside.

Resolved further, That this resolution take effect and be in force from and after its passage. Approved October 23, 1877.

COLEMAN COLE,
Principal Chief, Choctaw Nation.

Proposed by—
MCKEE KING,
Chairman Committee on Chief Message.

EXECUTIVE OFFICE, CHOCTAW NATION,
Atoka, September 20, 1877.

SIR: I am in receipt, through S. W. Marston, United States Indian agent, of a copy of your communication to him of the 3d instant, referring to a decision of the Secretary of the Interior of the 27th ultimo, upon the validity of the "permit law" of the Chickasaw Nation,

which Governor Overton of the Chickasaw Nation attempted to enforce upon one Dr. T. F. Ealy, teacher of the freedmen school at Fort Arbuckle, to the amount of \$25.

It is strange that so exalted an officer of the United States Government as the honorable Secretary of the Interior should commit the government to a decision on April 2d, and then upon the 27th of August of the same year decide just the reverse.

Here is a manifestation of rashness, hastiness, and instability entirely foreign to the character of the honorable Secretary, and very unusually characteristic of a high public functionary.

The facilities and sources of information for the honorable Secretary were certainly as good on April 2d as on August 27th.

I propose to make no objections as to the particular case of Dr. T. F. Ealy, but when the honorable Secretary is induced to make the sweeping declaration that neither the Choctaws nor the Chickasaws have any authority to pass or to enforce a law upon the subject of taxation except under the provisions of article 47 of the treaty of April 23, 1866, my official capacity and manly consciousness alike demand that I take issue with him.

The honorable Secretary could not have examined that article 47 with much care or thought or he would have seen that contingency none the less uncertain yet; that treacherous proviso and that condition yet unfulfilled. He would have seen that the only thing which can give it any force or even a name is the survey and assignment of the Choctaw and Chickasaw lands in severalty. The honorable Secretary ought to know this has not been accomplished, and the honorable Secretary ought also to be informed that no application has been made by the respective legislative councils of the Choctaws and Chickasaws for their invested and trust funds in the hands of the United States Government to be capitalized or converted into money; that these funds have not been converted into money, and consequently no divisions and payments made "per capita" to the individuals thereof respectively.

Without the fulfillment of the first part of that forty-seventh article the proviso is of no more value than the same amount of blank paper.

The honorable Secretary should know that not only the forty-seventh article but many other articles of the treaty of 1866 possess no force under the present holding of Choctaw and Chickasaw lands. Articles 3 and 11, and many other articles and parts of articles of the same treaty, have conditions which destroy their force entirely. But for the sake of argument let us assume that the proviso of that forty-seventh article is law and treaty. When the subject of taxation is introduced, it must have an object. Now what is that object? An individual of dull perception cannot fail to see that it is the lands of the Choctaw and Chickasaw country, and that no other kind of taxation is even implied.

Why restrict the Choctaws and Chickasaws, say you, to the satisfaction of the President of the United States in the matter of taxation upon lands in their own country? Evidently for the protection of the negroes and Kansas Indians whose tenure of lands is presupposed.

If the honorable Secretary will follow us to article 10 of the treaty of 1866, we will find an article that will do to rest on, and one which points us back to previous treaties, and we have to go no further back than to article 7 of the treaty of 1855, where we find no treacherous proviso to stumble over; where we find out what an intruder is and what is to be done with him; and where we find that the duties of all parties concerned, or all who may become concerned, are marked out in plain and unmistakable language.

The honorable Secretary's construction of the forty-third article of the treaty of 1866 makes it impossible to tell who and what an intruder is. The latter part of this forty-third article reads as follows: "But this article is not to be construed * * * 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 said nations."

The question arises here, what are works of internal improvement? Are not the employment of skilled laborers, agricultural and mechanical; the building up of schools; the opening up of farms; the operating of mines, &c., all works of internal improvement? No one will say to the contrary, and yet the honorable Secretary dictates a limitation to our treaty rights. The further fact that the word "temporarily" is thrown in between the words "employment" and "of white persons who are teachers, mechanics, or skilled in agriculture," shows that there was some limitation intended upon their indiscriminate and permanent employment.

The Choctaws and Chickasaws both have had permit laws for many years, and with the knowledge and assent of the different United States Indian agents.

Another potent reason why the honorable Secretary's rendering of that forty-third article will not do, is that it makes distinctions among persons on account of color, in direct variance with the fourteenth amendment to the Constitution of the United States.

My rendering shows that this distinction of color was made in deference to the rights and wishes of the Choctaws and Chickasaws. To their rights, because they were allowed to exercise their choice as to whom they would permit to come among them; and to their wishes, because it was well known that they desired to get rid of the negroes who were already among them.

No good citizen will object to contributing his equitable share of support to the government

of the country in which he lives. The vicious, lazy, improvident, and otherwise unworthy, labor most to escape, evade, and elude this duty of contributing to government and upholding of law, and yet these are the very classes of persons whom the honorable Secretary has publicly invited to come and live among us—above all men those whom we do not want and who are nuisances in any country.

We cannot believe the honorable Secretary is properly represented in the decision of August 27, 1877, and we beg of you, sir, to press this matter upon the honorable Secretary again and get back to your generous, candid, and gracious decision of April 2, 1877.

Very respectfully, your obedient servant,

COLEMAN COLE,
Principal Chief Choctaw Nation.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

PROCLAMATION BY COLEMAN COLE, PRINCIPAL CHIEF CHOCTAW NATION.

To the people of the Choctaw Nation and all concerned :

Proclamation.

EXECUTIVE DEPARTMENT, CHOCTAW NATION,
Atoka, Choctaw Nation, April 19, 1877.

Know ye that some time previous to January last, Mr. S. W. Marston, United States Indian agent at Muscogee, wrote letters to certain parties in the Chickasaw Nation, which bore the authority of a decision upon a point of law, and which, if recognized and enforced, was subversive alike of certain rights and privileges of the Choctaws as well as those of the Chickasaws.

In accordance with my sworn duty to protect the laws of the Choctaw Nation, I could not conscientiously pass unnoticed a matter of such grave importance. I therefore addressed a letter to the Secretary of the Interior demanding his immediate action in the matter.

As the result of my request, I herewith append, for the guidance and information of all concerned, the following communications from the Secretary of the Interior and Commissioner of Indian Affairs, which in my opinion fully sustain the position claimed and taken by the Choctaws.

Very respectfully, your obedient servant,

COLEMAN COLE,
Principal Chief Choctaw Nation.

DEPARTMENT OF THE INTERIOR,
Washington, April 2, 1877.

SIR: Your letter of January 31 ultimo, requesting the removal of your agent, Mr. S. W. Marston of the Union agency, has been received.

I have considered the subject of your communication, and have conferred with the Commissioner of Indian Affairs, who has submitted to me a report in the premises, a copy of which I inclose herewith for your information; and while it appears that Agent Marston committed an error in writing the letter, a copy of which you sent to me, I am of the opinion that his offense is simply an error of judgment upon a point of law, which would not at all justify his removal.

Very respectfully, &c.,

C. SCHURZ,
Secretary,

COLEMAN COLE,
Principal Chief Choctaw Nation, Indian Territory.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 23, 1877.

SIR: I have the honor to acknowledge the receipt, by your reference, from the President for report, of a letter dated the 31st ultimo, from Coleman Cole, principal chief of the Choctaw Nation, inclosing a copy of a letter from S. W. Marston, United States Indian agent, to certain citizens of the Chickasaw Nation, and demanding the immediate removal of the agent for having written this letter.

The substance of the charge made by the chief against Agent Marston is that the legislature of the Chickasaw Nation having by act approved by the principal chief, October 17, 1876, imposed a "tax of \$25 each upon white persons skilled in agriculture," who are not citizens of that nation, but are employed by citizens thereof, the agent had declared said act to be null and void, inasmuch as it had not been approved by him and was without authority of law. This decision Chief Cole alleges to be equally applicable to the Choctaw Nation, and hence his demand for the removal of the agent.

The treaty provisions regulating the presence of persons not members of the Choctaw and Chickasaw Nations within their territorial limits, are found in article 7 of the treaty of 1855 (Stat. at L., vol. 11, page 512) and in article 43 of the treaty of 1866 (Stat. at L., vol. 14, page 771). The former article, which is in force subject to the modifications made by the latter, gave to the Choctaws and Chickasaws the "unrestricted right of self-government and full jurisdiction over persons and property within their respective limits."

Exception was made in this article, however, to all persons with their property who were not members of the Choctaw or Chickasaw tribe. Such persons were to be considered as intruders and removed by the United States agent, with certain exceptions, these being—

- 1st. Employés of the government and their families ;
- 2d. Persons traveling or residing in the Territory under license from the proper authority of the United States ; and
- 3d. Persons residing there by the permission of the Choctaw or Chickasaw authorities with the consent of the United States agent.

It seems to me that this article was intended to grant or guarantee to the Indians full control over any persons who were allowed to remain within their respective territorial limits, and that persons who were not citizens of the nations, could escape taxation only by removal from their Territory.

By article 43 of the treaty of 1866, the United States stipulated to remove all white persons except government officials or officers of any internal improvement company, or persons traveling through or temporarily sojourning in the Territory, exception being made, however, in favor of teachers, mechanics, or persons skilled in agriculture.

In respect to these, both the United States and the Indians agreed that the power of the United States should not be exerted in behalf of their removal. Whether they should go or stay is a question to be settled by the parties in interest. If the Chickasaws should deem it best to effect their removal, it is entirely competent for them so to do. If, on the other hand, the Chickasaws see fit to let them stay, I do not see how the persons thus favored can complain if they are called upon by the Chickasaws to bear their share in support of the national government. If such persons desire the protection of the United States, they can readily obtain it by removing to some State or Territory where no Indian nation invested by solemn treaty with the "unrestricted right of self-government and full jurisdiction over persons and property" can claim authority over them.

Having voluntarily fled their responsibility as citizens of the United States, and come under the jurisdiction of this Indian nation, they cannot expect the government to violate a treaty to relieve them from the consequences of their own act.

Upon the propriety or wisdom of this legislation I do not venture to express an opinion; the settlement of that question is left exclusively to the Indians by the 7th article of the treaty of 1855.

The action of the agent, therefore, appears not to have been fully warranted ; but there is no reason to suppose that it was due to anything further than erroneous judgment upon a point of law ; and I see no reason for acceding to the demand of the principal chief of the Chickasaws and Choctaws for his removal.

Very respectfully,

J. Q. SMITH,
Commissioner.

To the honorable the SECRETARY OF THE INTERIOR.

This decision is regulated and defined from meaning of the spirit of the treaties and it is heartily approved by me.

COLEMAN COLE,
Principal Chief Choctaw Nation.

[Slip from newspaper published at Eufaula, Ind. T.]

The right of taxation.

We publish on our first page a letter from the Secretary of the Interior to the Commissioner of Indian Affairs, by means of which letter that Secretary undertakes to deny that any Indian nation has any right to levy any tax whatever on any person or anything without previous approval by the President of the United States.

The occasion which called forth the letter was as follows :

Last year the Chickasaws decreed that such non-citizens as were not by the stipulations of any treaty between the United States and the Chickasaws entitled to a residence within the border of the Chickasaw Nation, might obtain from that nation authority to that effect from year to year on payment of a sum of twenty-five dollars for a yearly permit, instead of being removed as intruders under the United States statute regulating the intercourse with Indian tribes.

Mr. Marston, the United States Indian agent at the Union Agency, which agency contains the territory of the Chickasaws, objected to this permit law, and attempted to inhibit the collection of sums of twenty-five dollars for permits. The ground he took was that no Indian nation has the right to collect any tax not previously approved by the Indian agent placed with such nation.

The Commissioner of Indian Affairs overruled the objection made by Agent Marston, and the tax was collected.

The Secretary of the Interior now overrules the ruling of the Commissioner of Indian Affairs, and sustains the objection made by Agent Marston except in this, that an Indian nation, in order to be able to enforce any tax law, does need the approval, not of the Indian agent, but of the President of the United States. The Secretary further assumes that to persons not entitled by any treaty between the United States and an Indian nation to a residence within the borders of said nation, such right can be granted by such nations only with the approval of the Indian agent residing with such nation. Further, that no non-citizen not entitled to a residence under any treaty can be removed except by the authority of the United States, and that such authority can be employed only at the request of the Indian agent. Lastly, the Secretary enumerates whole classes of persons who, he claims, though non-citizens, have the right to reside among the Choctaws, albeit not expressly authorized to do so by any treaty.

We consider the Secretary's letter as a most ill-advised document, and the views therein expressed, on the relation between the United States and the Indian nations, as incorrect and bad in law. We shall join issue with him on every one of the four propositions it contains. Now we can only begin to speak of the right to tax, but we shall continue the subject, and later reach the other points. Meanwhile we hope that the different national councils, now either already in session, like that of the Chickasaws, or about to meet, like that of the Creeks and Choctaws, of nations directly affected by the Secretary's ruling, will take the necessary steps for the preservation of their rights. As Governor Overton correctly said in his last able message to the Chickasaw national legislature, every Indian nation should have at Washington a competent and trustworthy agent to guard such nation's interests, so far as they can be affected by any action of the United States Federal administration or of the Congress of the United States. But more yet is required.

The time for exclusive reliance on palavers with the "great father" is past. Indian matters should be brought to the notice of the people at large of the United States, of that people whose servant, to be instructed by them and accountable to them, that "great father" is. And when a difference of opinion exists between an Indian nation and the United States Federal administration as to the interpretation of a treaty, means should be sought to have the matter determined, not by a cabinet officer or any of his subordinates, but by the Supreme Court of the United States. We believe the latter might perhaps be done in the matter of the Chickasaws' permit laws. Suppose the Chickasaws disregard the ruling of the Secretary of the Interior, and continue to enforce their permit law by means of their militia? Non-citizens aggrieved by that action will cause the militiamen enforcing the law to be brought before the United States court at Fort Smith. That court, with its known jurisprudence in Indian matters, may decide against the militiamen, but an appeal from its decision will bring the matter before the Supreme Court of the United States. That last tribunal no Indian need fear. Like the people at large of the United States, it is free from the influences liable to control government employés and individual members of Congress.

The American nation is sick of the scoundrelism and imbecility which have from time immemorial characterized the treatment of Indian nations and tribes. That treatment is felt to be a national disgrace. Just now costly and ignominious Indian wars are being waged, which further condemn that treatment. Land-grabbers and contractors are unpopular. Great philanthropists begin to take up the Indian's wrongs. The great heart of the American people once touched, back-stairs influence and paltry intrigue will be at an end. Before the storm of public indignation no man can stand.

This article is only introductory. We will, however, even to-day, examine the Secretary's ground for denying the Indians the right of levying any tax whatever. He seeks such ground in article 47 of the treaty between the United States of America and the Choctaw and Chickasaw Nations. That article reads as follows :

"As soon as practicable after the land shall have been surveyed and assigned to the Choctaws and Chickasaws in severalty, as herein provided, upon application of their respective legislative councils, and with the assent of the President of the United States, all the annuities and funds invested and held in trust by the United States for the benefit of said nations, respectively, shall be capitalized or converted into money, as the case may be; and the aggregate amount thereof belonging to each nation shall be equally divided and paid *per*

capita to the individuals respectively, to aid and assist them in improving their homesteads and increasing or acquiring flocks and herds, and thus encourage them to make proper efforts to maintain successfully the new relations which the holding of their lands in severalty will involve:

"*Provided, nevertheless*, That there shall be retained by the United States such sum as the President shall deem sufficient of the said moneys to be invested, that the interest thereon may be sufficient to defray the expenses of the government of said nations respectively, together with a judicious system of education, until these objects can be provided for by a proper system of taxation; and whenever this shall be done to the satisfaction of the President of the United States, the money so retained shall be divided in the manner and for the purpose above mentioned."

The article treats of the consequences of a survey and assignment of lands in severalty to the Choctaws and Chickasaws, which survey and assignment can only take place upon application of the legislative councils, and with the assent of the President of the United States. It is said that in case of such survey and assignment in severalty, all the annuities and funds invested and held in trust by the United States for the benefit of said nations, respectively, shall be capitalized or converted into money, and the aggregate amount thereof belonging to each nation equally divided and paid *per capita* to the individuals respectively:

"*Provided, nevertheless*, That there shall be retained by the United States such sum as the President shall deem sufficient of the said moneys to be invested, that the interest thereon may be sufficient to defray the expenses of said nations, respectively, together with a system of education. The retention of moneys shall continue until a proper system of taxation shall, to the satisfaction of the President, have been provided for these objects. Whenever this last is done, the money till then retained shall be divided like other money will have been before then."

This article does not touch the subject at all. It speaks of what shall be done with the national funds whenever the land-grabber's dream of dissolving the tribal relations, of extinguishing the Indian title, of giving a small portion of the land in severalty to the Indians, of granting several millions to railroad companies, and of throwing the rest open to settlement by whomsoever wants to homestead or pre-empt it, shall be realized. The realization of this dream in the only legitimate way possible by a suicidal wish of the nation herself, is not probable, and were a realization attempted in any other way, a war of extermination, soaking the land in blood, would first have to be waged. But suppose such things did happen; then the funds belonging to the nation, or what little there might be left of such nation after the slaughter, would have to be divided among the individual members, except so much as the President of the United States might deem necessary to cover the expenses of such nation or remnant governing herself and educating her youth; little there would be to govern and little to educate; it could not cost much; but should the nation or her remnant tax herself for these governmental and educational purposes, then that dribble of funds shall also be divided. It is, however, necessary the President should first be satisfied the means will really be raised, and therefore the system of taxation must first be approved by him. This article 47 is to guard against insufficient tax-laws under a certain contingency. How can it be construed in a surrender of the right to levy taxes, which right is inherent not only in every sovereign nation, but also in every community, which, though not sovereign, is possessed of autonomy. Mr. Schurz, when for the first time at Bonn attending a lecture on logic, would not have fallen in such a fault of reasoning. He cannot possibly have written the letter which bears his signature. Neither does the ruling made by Chandler, Mr. Schurz's predecessor, affect the case. That ruling, whatever may be the weight to be attached to it, anyhow has reference only to the taxation of certain property claimed to have been exempted from taxation by a special clause of the treaty of 1866. The railroad company pleads privilege. All analogy fails. The two cases have nothing in common.

EXHIBIT No. 30.

WASHINGTON, D. C., January 30, 1877.

SIR: I have the honor to present herewith a letter from various citizens of the Chickasaw Nation, complaining of unlawful and oppressive acts on the part of the legislative, judicial, and executive departments of the Chickasaw Nation, appointing myself as their special agent, and instructing me to urge upon the Government of the United States early and decisive action in the interest, specially, of the agriculturists of the Chickasaw Nation touching the questions submitted for its decision.

It is an ungracious act to complain of the proceedings of our own government to that of another; but the total disregard of our written constitution, our laws, and the treaties between the United States and the Chickasaw Nation, which has characterized the present administration of the government of our nation, known as the Overton administration, makes it a duty to appeal to the Government of the United States, under whose protection

our people have placed themselves, and which is guaranteed to them by treaties. Among the acts of our government showing an utter disregard of our constitution and laws, I beg leave to call your attention to the facts connected with the management of our school funds, all which are matters of record.

Under article 3 of the constitution of the Chickasaw Nation, section 1, it is declared "that the powers of the government of the Chickasaw Nation shall be divided in three distinct departments, and each of them confided to a separate body of magistracy, to wit: Those of the legislature to one; those of the executive to another; and those which are judicial to another. And no person, or collection of persons, being one of these departments, shall exercise any power properly attached to either of the others." (Laws of the Chickasaws, edition of p. 6.)

By article 5, executive department, section 1, "the supreme executive power of the nation shall be vested in a chief magistrate, who shall be styled the governor of the Chickasaw Nation."

"SECTION 6. The governor shall have the power to enforce the laws, assisted by the militia if necessary. He shall have power to compel all the officers of this nation (except the members of the legislature) to discharge the duties of their respective offices; and for any neglect of duty, or other misdemeanor in office, he shall suspend the officer so offending until a judgment is given of acquittal or condemnation."

By law, the superintendent of education among the Chickasaws contracts for the management of public schools and academies; and upon his certificate that those having charge of such institutions of learning have faithfully discharged their duties, the auditor of public accounts is required to issue his warrant upon the national treasurer for the amount of compensation due them.

In the case referred to, the superintendent of education refused to issue his certificate in favor of the person having charge of Lebanon Academy for orphan children, alleging that said contract had not, in several important particulars, been complied with. The matter was referred to Gov. B. F. Overton, who proceeded to suspend the superintendent of education, and sent the case before the court. He then appointed a *pro tempore* superintendent, and required him to issue his certificate to the complainant, which was done; and thereupon the auditor issues his warrant on the treasurer, and the money claimed, amounting to six thousand dollars, was paid. All this while the matter was pending in court, and when the trial came the court and jury decided that the superintendent of education had done his duty in refusing the certificate. The superintendent having been acquitted, again entered upon the discharge of his duties, but the money was gone, and to this day has not been properly accounted for.

The mere statement of the facts is sufficient to show that the governor disregarded the constitution, and unlawfully caused the school funds to be drawn from the treasury of the nation and paid over to the contractor having charge of Lebanon Orphan School, and shows that this administration cannot be safely trusted with our public funds.

A like disregard of the constitution, the laws, and the treaties, on the part of our governor, has been exhibited in other later instances. In fact, with a subservient legislature and judiciary, he has concentrated all the powers of the three departments of the Chickasaw Government into one, and thus, by a combination of the other two with the executive, he has overturned a constitutional republican government among our people, and instituted the worst form of tyranny.

By an act of the legislature, approved October 17, 1876, it was declared—

"SECTION 1. That non-citizens of any State or Territory of the United States, wishing to hire or rent land, or be otherwise employed in this nation, shall be required to enter into contract with a citizen, said contract to be reported by the citizen to the county clerk of the county where the said citizen resides."

This section was changed by striking out the word "non," so as to make it read "citizen of any State or Territory of the United States."

This was done, not by the legislature or by its authority, but by some unauthorized person; and the governor, with full knowledge of the fact, caused the law thus changed to be certified to by the national secretary and promulgated as the law of the Chickasaw Nation, and proceeded to enforce it, not in the ordinary mode, by the courts and its officers, but by calling out the militia, backed by a detachment of United States troops which he had succeeded in obtaining from the commanding officer at Fort Sill under the pretext that they were needed to assist in expelling desperadoes and other lawless persons from the limits of the Chickasaw Nation. This procedure was without constitutional authority, inasmuch as no resistance had been offered to the enforcement of the so-called law. Under section 2, of said pretended law, non-citizens were required to pay to the clerk of the county court of the proper county, the sum of \$25 for a permit to reside or to be employed within the Chickasaw Nation. But the governor, backed by a select body of the militia and the United States troops, in many instances collected the tax personally, in violation of the very law he professed to enforce, giving orders to the clerks of the county courts to issue permits, which was done in all the counties of the nation except one, that of Pinola County, in which the clerk refused to issue the permits under the orders of the governor, unless accompanied by the money, for which, under the law, the clerk and not the governor was required to account

to the national treasurer. Moreover, the governor, instead of turning over the money collected by him to the clerks, or to the national treasurer, used a large portion of it at his own discretion and without warrant of law in defraying the expenses of the militia, who had been called out without any evidence of necessity.

Complaints on the part of individuals finally reached the Department of the Interior, touching these high-handed measures, and upon full consideration of the general permit law above referred to, on the 3d day of September, 1877, the Commissioner of Indian Affairs addressed a letter to S. W. Marston, United States Indian agent, Muskogee, Indian Territory, informing him that on the 27th of August, 1877, the honorable Secretary of the Interior had decided to the effect that the so-called "permit law of the Chickasaw Nation" is null and void, and that "all proceedings under it must cease."

The Commissioner of Indian Affairs also indorsed a copy of said decision, and instructed the United States Indian agent to "at once notify the Choctaw and Chickasaw Nations of its purport, and inform them that the department expects their prompt and strict compliance therewith."

The United States Indian agent accordingly addressed a communication to the governor of the Chickasaw Nation, inclosing a copy of the decision of the honorable Secretary of the Interior, and the letter of the Commissioner of Indian Affairs, with request that the governor would lay the same before the legislature then in session, with the further request on the part of the United States agent, that the legislature would take the necessary steps to have the tax which had been unlawfully collected, returned to the parties from whom it had been received.

No attention was paid by the governor to the decision of the Department of the Interior and the letter of the agent, further than to speak of the same in the most contemptuous manner, and to declare, if the Chickasaws would back him, that he would continue to enforce said so-called "permit law" at all hazards, and at all events he would enforce the fifth section of said law, which imposes a fine of \$25 on each citizen of the Chickasaw Nation who shall employ a non-citizen of said nation for more than fifteen days without payment of the \$25 tax having been made, and a permit obtained according to said act, approved October 17, 1876.

The governor has ever since acted with the same disregard of the decision of the honorable Secretary of the Interior; and the courts and officers of the nation are attempting, it is believed with orders from the governor, to enforce the same; at all events, the judge of the circuit court, at its late session in Pinola County, instructed the grand jury to enforce the so-called law, by finding bills of indictment against those who have failed to obey it. These instructions can apply to none other than citizens of the nation, as it is not pretended that citizens of the United States can be proceeded against in the Chickasaw courts. Moreover, the judge of the county court of Pinola County has by public notice posted on the courthouse door, called upon all citizens to observe and comply with the requirements of the so-called permit law, upon pain of being arraigned for neglecting to obtain permits for non-citizens in their employment.

It is most respectfully submitted that these proceedings of the executive and judicial officers of the Chickasaw Nation bring them in direct opposition to the officers of the United States Government who have the charge and management of Indian affairs. They have produced uneasiness in the minds of the peaceable, discreet, and patriotic portion of our people who deprecate any collision between the United States and the Chickasaw Nation. Moreover, the difficulty of obtaining labor for the cultivation of their farms is greatly increased thereby, and all hope of profit from agricultural pursuits is well-nigh lost under the apprehension that they will be compelled to pay the tax of \$25 for each laborer employed, or else be subjected to fine and imprisonment for non-compliance with the so-called law, which, as before stated, has been declared by the honorable Secretary of the Interior to be null and void.

There is no appeal from the decision of our courts and the actions of its officers to any other court, inasmuch as, though questions arising under treaties with the United States Government are within the jurisdiction of the United States court, we, as Indians, being neither foreigners or citizens of the United States or Territories thereof, have no status in said courts. There is no way that we are aware of to carry a case from our courts to those of the United States. In law we are minors and wards of the United States Government, and are advised that there is no remedy for the oppression to which we are subjected in this connection, except by an appeal to the power which has assumed by treaty with us the functions and duties of guardian and protector. As the representative of the oppressed people of the Chickasaw Nation, I appeal to you, and through you to the honorable Secretary of the Interior, and to the President of the United States, to protect us in the rights secured to us by the forty-third article of the treaty of 1866, to employ "teachers, mechanics, and persons skilled in agriculture," who surely cannot be considered intruders, when thus employed under what may be termed a treaty permit, granted by the United States to the Choctaw and Chickasaw Nations in said article of the tripartite treaty of 1866.

Trusting, sir, that the foregoing statement of facts will convince you of the necessity for speedy, public, and decisive action on the part of your government in the interest of the

agriculturists among our people, the season for preparation for planting now being far advanced,

I am, sir, your obedient servant,

LEM REYNOLDS,

Special Agent for the Farmers of the Chickasaw Nation.

To Hon. E. A. HAYT,

Commissioner of Indian Affairs, Department of the Interior.

CHICKASAW NATION, COUNTY OF PANOLA,

January 16, 1878.

I do hereby notify all non-citizens of Panola County, Chickasaw Nation, to get out permits under the present law by February term of county and probate court.

Given under my hand this 16th day of January, 1878.

C. B. KINGSBERY,

County and Probate Judge of Panola County, Chickasaw Nation.

I do hereby certify that the above is a true and correct copy of the original order or proclamation that was stuck up at the court-house door in Panola County, Chickasaw Nation.

Given under my hand and seal of office this 26th day of January, A. D. 1878.

[SEAL.]

BENJ. F. GREENWOOD,

Clerk of Panola County, Chickasaw Nation.

THE CHICKASAW NATION }
versus. }
LEM REYNOLDS. }

Defendant charged with violation of the fifth section of the permit-law, approved October 17, 1877.

This court being ordered by a writ of mandamus from the supreme court of the Chickasaw Nation, dated October 1, 1877, ordering and directing the district judge to put this case upon trial:

Now, therefore, I, Overton Love, district judge of the Chickasaw Nation, do this day dismiss the case of Lem Reynolds, charged with violating the fifth section of the permit-law, on the record of the court, on the ground there being no indictment, presentation, or evidence in the case.

January 8, 1878.

OVERTON LOVE,

District Judge, Chickasaw Nation.

Attest:

B. F. GREENWOOD, *Clerk.*

I do hereby certify that the above is true and correct, as will show on record in my office. Given under my hand and seal of office this 8th day of January, 1878.

BENJ. F. GREENWOOD,

Clerk of Panola County, Chickasaw Nation.

Copy of permit-law attached.

SUPREME COURT ROOM,

Tishomingo City, Chickasaw Nation, October 1, 1877.

It is the opinion and decision of the court that Lem Reynolds is entitled to a trial in the district court in Panola County, charging him with violating permit-law of the Chickasaw Nation, passed and approved in the month of October, 1876.

Now, therefore, we, the supreme judges of the Chickasaw Nation, do, in conformity of the constitution and law of the Chickasaw Nation, order T. B. J. Johnson, district judge of the Chickasaw Nation, to take said case and put it upon trial.

Herein fail not to obey the order of this court.

Given under our hands and seal the day and year above written.

[SEAL.]

his
ABIJAH + COLBERT,
mark.

Associate Judge, Chickasaw Nation.

[SEAL.]

his
WM. + HARKINS,
mark.

Associate Judge, Chickasaw Nation

Attest:

[SEAL.]

I. A. BURRIS,

Supreme Clerk, Chickasaw Nation.

I do hereby certify that the above is true and correct copy of the original now in my office. Given under my hand and seal of office this 8th day of January, 1878.
[SEAL.]

B. F. GREENWOOD,
Clerk of Panola County Court,

Petition.

To his honor THOMAS JOHNSON,
Judge of the District Court of the Chickasaw Nation :

The petition of the undersigned citizens of said nation, county of Panola :

We, the complainants against Benjamin F. Greenwood, clerk of the district court for the county of Panola ;

Whereas we, the undersigned citizens, believe that there has been money unlawfully collected from us under the so-called permit-law, passed the legislature October 17, 1876 ; and

Whereas there is no relief save in the court in the case above mentioned ;

Your complainants pray that a writ of injunction be served to enjoin and restrain Benjamin F. Greenwood, clerk of said court for Panola County, from paying over our money to the national treasury until the matter can be decided by the court. We humbly pray.

J. A. SMITH.	CHARLES EASTMAN.	JOHN MAUPIN.
JACKSON KEMP.	CHARLES SHECO.	JOHN CRAVENS.
THOMAS BARKER.	HENRY HAMBLIN.	JAMES FRANKLIN.
J. H. FINCH.	DAVID COLBERT.	DAN COLLINS.
WM. BACON.	WM. KEMP.	D. W. FINCH.
LITTLETON SHECO.	ISOM SHEOPA.	

I hereby certify that the above is true and correct copy of the original now in my office. Given under my hand and seal of office this 8th day of January, 1878.

[SEAL.]

BENJ. F. GREENWOOD,
Clerk of Panola County, Chickasaw Nation.

The case of Lem Reynolds was called and dismissed for the following reasons, to wit :

- 1st. It not come from the county court in the proper form.
 - 2d. The district court could not try the illegality of the legislature.
- July 5, 1877.

T. B. JOHNSTON,
District Judge, Chickasaw Nation.

I do hereby certify that the above is true and correct copy of the original now in my office this 9th day of January, 1878.

[SEAL.]

BENJ. F. GREENWOOD,
Clerk of Panola County, Chickasaw Nation.

Rock Springs County and Probate Court.

THE CHICKASAW NATION }
vs. }
LEM REYNOLDS. }

Charge of misdemeanor or violation of the 5th section of the late permit-law, passed October 17, 1876.

I, C. B. Kingsbery, county and probate judge of Panola County, C. N., have this day assessed a fine of \$25 against said Lem Reynolds for violation of 5th section of the late permit-law, passed October 17, 1876.

Given under my hand this 18th day of April, 1877.

C. B. KINGSBERY,
County and Probate Judge of Panola County, Chickasaw Nation.

Attest :

B. F. GREENWOOD, Clerk of Court.

I do hereby certify that the above is true and correct, as will show on record in my office. Given under my hand and seal of office this 8th day of January, 1878.

[SEAL.]

B. F. GREENWOOD, Clerk.

THE CHICKASAW NATION }
vs. }
LEM REYNOLDS. }

This day comes the defendant in this case and takes exception to the ruling of the court,

on the ground that the national secretary failed to send a copy of the permit-law to the clerk of the court, and claims that the permits issued under the old law are good and valid, and he therefore prays an appeal to the next term of the district court to be holden at Rock Springs on the first Monday in July, 1877.

April term of county court.

BEN. KEMP,
Attorney on part of Defendant.

Also claims as follows :

1st. I do not believe the last legislature was a legal one.

2d. I do not believe the so-called permit-law now in force is the law that passed the legislature, if it was a legislature at all.

3d. It being unconstitutional under the third article of the bill of education.

By granting my request, I ever pray.

Yours, respectfully,

LEM REYNOLDS.

I do hereby certify that the above is true and correct, as will show on record in my office. Given under my hand and seal of office this 8th day of January, 1878.

[SEAL.]

BENJ. F. GREENWOOD,
Clerk of Panola County, Chickasaw Nation.

COURT-ROOM, PANOLA COUNTY, CHICKASAW NATION,
January 8, 1878

To the Clerk of Panola County, Chickasaw Nation :

You are hereby commanded to turn over to the national treasurer of the Chickasaw Nation all moneys in your possession received by you for permits or otherwise, all orders to the contrary notwithstanding.

OVERTON LOVE,
District Judge, Chickasaw Nation.

I hereby certify that the above is a true and correct copy of the original now on file in my office.

Given under my hand and seal of office this January 8, 1878.

[SEAL.]

B. F. GREENWOOD,
District Clerk of Panola County, Chickasaw Nation.

The clerk of this court will issue the summons and the writ or injunction, in accordance with the prayer contained in the within petition of complainants, and hold all moneys collected by himself for permits under the act of October 17, 1876, subject to the order of the court.

July 2, 1877.

T. B. JOHNSTON,
District Judge, Chickasaw Nation.

I hereby certify that the above is a true and correct copy of the original now on file in this office.

Given under my hand and seal of office this January 8, 1878.

[SEAL.]

B. F. GREENWOOD,
District Clerk, Panola County, Chickasaw Nation.

APRIL 11, 1877.

DEAR SIR: I learn that the permit law is only confined to males, and not to females, unless her boys are 18 years old.

Mrs. Garrison is registered in my employ. Neither of her boys are 18 years old. Therefore, I send you her certificate, and you will please send me the \$25 in return, as I had to borrow the money.

Very respectfully, yours,

SAM'L LOVE.

Mr. BEN. GREENWOOD.

N. B. If it is not too much trouble, send me a copy of the law.

I do hereby certify that the above is true and correct copy of the original now in my office.

Given under my hand and seal of office this 9th day of January, 1878.

[SEAL.]

BENJ. F. GREENWOOD,
Clerk of Panola County, Chickasaw Nation.

Petition to the supreme court, and its decision.

"An important question" on legal or illegal constitutionality of an act entitled "An act in regard to 'permit law' of the Chickasaw Nation," approved October 17, A. D. 1876, submitted to the honorable supreme court, spring term, 1877, now in session, for its decision; requested by all concerned.

1st. The last section of the law in question repealed the act of United States Congress in regard to foreigners coming into the Indian country, which the Chickasaw legislature have no authority to repeal by treaty with United States Government, and agreeable to the treaty of 1866, which was confirmed by the Chickasaws in November, 1866, and the Chickasaw convention engrafted in the constitution of the Chickasaw Nation, section 25 of article 4, legislative department, provides, the legislature shall conform to the treaty of 1866, pass all laws necessary to the requirements or said treaty, &c., which prohibits the Chickasaw legislature to pass any law inconsistent with said treaty or any acts of United States Congress, and agreeable to the treaty of 1855.

The United States Indian agent decided that there is no authority in the treaty stipulation with Indians to levy tax on the labor of United States citizens, &c.; as also the public education of the constitution, section 3, reads: "The legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvements, and such other means as shall be invariably appropriated to the support of general education throughout this nation."

Also section 20 of general provision reads: "All rights and powers not herein granted or expressed are reserved unto the people, and any law that may be passed contrary to the provision of this constitution shall be null and void."

The Chickasaw legislature are governed by the above clause of the treaty and constitution to legislate.

It seemed that the Chickasaw legislature enacted at its last session the "permit law," contrary to the provision of their constitution, all of which is respectfully submitted for your honorable decision, to satisfy all concerned as to their interest, so that prosperity and harmony may prevail throughout this nation, which is highly necessary.

With great regard, we are your humble servants,

WM. P. BROWN, *Citizen.*
EASTMAN HARNEY, *Citizen.*

The above-written is a copy of "a petition praying the decision of supreme court on constitutionality of the permit law approved October 17, 1876, filed in clerk's office of the supreme court this 3d day of April, A. D. 1877.

I. A. BURRIS,
Clerk Supreme Court Chickasaw Nation.

I do hereby certify that the above is a true copy of the original now on file in the clerk's office of the supreme court, Chickasaw Nation.

Given under my hand this the 15th day of June, A. D. 1877.

I. A. BURRIS,
Supreme Clerk.

The following is the decision of the supreme court in regard to the above petition:

Whereas an important question on legal or illegal constitutionality of an act entitled "An act in regard to permit law of the Chickasaw Nation," approved October 17, A. D. 1876, submitted to the honorable supreme court, spring term, 1877, now in session, for its decision, requested by all concerned.

After having been submitted to the supreme court now in session for its final decision, whether this "permit law" in question is constitutional or unconstitutional, after a mature deliberation upon the said question, we, the supreme judges of the Chickasaw Nation, do unanimously decide that it is constitutional.

Given under our hands this the 8th day of April, 1877.

SAMUEL LOVE,
Chief Justice Supreme Court Chickasaw Nation.

ABIJAH ^{his} + COLBERT,
mark.

WILLIAM ^{his} + HAWKINS,
mark.

Associate Judges.

Attest:

I. A. BURRIS,
Supreme Clerk, Chickasaw Nation.

I do hereby certify that the above is a true copy of the original now filed in my office.
Given under my hand this the 15th day of June, A. D. 1877.

I. A. BURRIS,
Supreme Clerk, Chickasaw Nation.

CHICKASAW NATION, INDIAN TERRITORY,
January, 1878.

SIR: The undersigned citizens of the Chickasaw Nation respectfully represent that under the so-called general permit law of the Chickasaw Nation, approved by the governor, B. F. Overton, October 17, 1876, all citizens of the United States, and of the States and Territories thereof, who desire to be employed within the limits of the Chickasaw Nation, are required to enter into a contract with some citizen of said nation, and pay to the county clerk of the county where such citizen resides, the sum of \$25, and such citizen of the Chickasaw Nation is required within fifteen days to report such contract to the said clerk, and if any citizen of the Chickasaw Nation shall employ any non-citizen for more than fifteen days without said tax having been paid, such citizen of the * * * subject to a fine of \$25 to be collected as other fines are collected; that we are informed and believe said pretended act of the legislature, in the form it was approved and promulgated, never passed that body, but the act which did was changed so as to make it apply to citizens of the States and Territories of the United States, instead of non-citizens of said States and Territories; that nevertheless, the governor of the Chickasaw Nation causes this spurious act to be certified by the national secretary and promulgated as a law of the Chickasaw Nation; that (he) being apprehensive, it seems, the officers of the nation would not or could not enforce the pretended act of the legislature, the governor proceeded to call out the militia or a select portion thereof, for the purpose of enforcing the so-called law; this before any resistance had been offered to its enforcement in the ordinary way, and it being still apprehensive that his militia could not or would not enforce it, he applied as we are informed and believe, to the commanding officer of the United States troops at Fort Sill, for the assistance of soldiers under the pretext that this end was required to expel from the limits of the Chickasaw Nation, desperadoes, thieves, and murderers.

Having received a detachment of United States cavalry, who were instructed to report to and carry out the orders of the Chickasaw governor, he proceeded with them and his militia, to collect the tax, in many cases raising the money in person, notwithstanding the law under which he pretended to act requires said payment to be made to clerk of the county court. Moreover, we are informed and believe he used a large amount received as tax due the nation, without warrant of law, to defray his expenses of his raid upon peaceful and industrious citizens of the United States, who are quietly engaged in the cultivation of the soil under the employment of the citizens of this nation.

That some time since the United States Indian agent decided said permit law to be invalid, and Governor Overton appealed to the Department of the Interior, thus fully admitting his jurisdiction over the subject, and succeeded in obtaining a decision setting aside that of the Indian agent, but subsequently the question of the validity of the so-called permit law having again been brought before the honorable Secretary, he rescinded his former decision, and after full consideration declared the law contrary to the law and treaties of the United States, and therefore null and void.

Again the governor and the delegation from the Chickasaw Nation at the city of Washington, appealed to the department, and it is understood they failed to obtain a reversal of the Secretary's last decision. So it appears the late so-called permit law of the Chickasaw Nation, as declared by the Department of the Interior, is null and void. This decision was communicated to Governor Overton by the resident United States Indian agent, acting under orders of the Commissioner of Indian Affairs, with the request he would submit the same to the legislature then in session, and expressing the hope the legislature would take necessary measures to have the taxes illegally collected returned to the proper parties. Instead of complying with this request, we learn the governor said, if he, the governor, would be backed with their influence and money, he would execute the permit law at all hazards; that if he could not collect it off citizens of the United States, their employes, citizens of the nation to pay it or be fined; thus he would collect by indirection to enforce the tax, the decision of the Secretary to the contrary notwithstanding, and in defiance of the forty-third article of the treaty of 1866, which excepts "teachers, mechanics, and persons skilled in agriculture," while employed by citizens in the nations (Choctaws and Chickasaws) from being classified as intruders, subject to removal by the United States Indian agent, and really and truly amounts to a permit for such persons when so employed, to reside in the Choctaw and Chickasaw Nations, given and guaranteed by three parties to said treaty, viz, United States, by the Choctaw and the Chickasaw Nations.

Finally, the undersigned are informed and believe, and in fact it is notorious, the judge of the circuit court of the Chickasaw Nation, recently held at Rock Springs, Panola County, charged the grand jury that it was their duty to enforce the so-called permit law of the Chickasaw Nation, ignoring the decision of the department, and openly placing the courts of the Chickasaw Nation in collision with the United States Government.

We, the undersigned, regard this charge as an open declaration that the citizens of the

Chickasaw Nation are to be fined, and failing to pay the fine, to be imprisoned, not for any offense or crime, but for exercising a treaty right to employ "teachers, mechanics, and persons skilled in agriculture," and for his disregarding the law declared by the proper authority of the United States to be null and void.

The question now presents itself is this: Shall the citizens of the Chickasaw Nation be subject for fines and penalties for violating no law? Under these circumstances, and being peaceable, law-abiding citizens, and to avoid the appearance of resistance to the constituted authorities of the Chickasaw Nation, and having otherwise no legal redress, inasmuch as the supreme court of the Chickasaw Nation, which by the constitution is a court of appeals only, without any case before it, went out of the way, just before Governor Overton commenced his raid last spring, to declare the permit law constitutional, thereby cutting off from all legal redress, and inasmuch as the courts of the United States have jurisdiction over questions arising under treaties of the United States and laws thereof, we as Indians has no status in these courts, because we are neither citizens of the United States or of any State or Territory of the United States, nor foreigners.

We therefore appeal to the Government of the United States to protect us in our rights under treaties with it, and shield us from wrong and oppression by the officials of our own government, under forms of law.

For the purpose of presenting this memorial, and laying before the United States Government all the facts, with court records, &c., connected with the oppression to which we are subjected, we have appointed and deputed our fellow-citizen, Col. Lem Reynolds, as our representative, and trust he will be received as such, and permitted to act as our special agent to the Government of the United States, to represent the oppressed citizens of the Chickasaw Nation. Colonel Reynolds will ask an early decisive action on the part of our guardian, the Government of the United States, and we hope it will be made without delay, inasmuch as the agricultural interests of the country will suffer greatly unless speedily re-enforced by labor in the fields, or many will lay idle and the agricultural interest of the nation greatly impaired.

All of which is respectfully submitted.

GEO. W. HARKINS.	JNO. J. CRAVENS.	D. O. FISHER.
J. D. HARRIS.	THOS. S. BARKER.	CORNELIUS MCGEE
EASTMAN HARNEY.	B. F. GREENWOOD.	ROBERT COLBERT.
W. H. BOURLAND.	JNO. M. WEBB.	D. W. COLBERT.
S. D. JAMES.	ALLEN LATTA.	JAMES CHEADLE.
G. D. JAMES.	JOEL KEMP.	BENJ. KENNY.
JAMES DULIN.	JACKSON KEMP.	R. C. WIGGS.
R. M. HARRIS.	MCKINNEY COLBERT.	ABRAM GURNZY.
WM. JACKSON.	JOHN MASHBURN.	CHARLES SHECO.
CHAS. STEWART.	N. W. RIDER.	H. C. HAMBLIN.
WM. MOORE.	MCKINNEY COBB.	WM. R. GEORGE.
NOAH MCGILL.	J. J. SELF.	A. J. LEWIS.
JAMES HARKINS.	EASTMAN JAMES.	JAMES A. REYNOLDS.
ANDERSON DAVIS.	C. P. HARRIS.	MARION DAVIS.
JOHN S. HOWELL.	J. C. MCCOY.	SIMON KEMP.
D. B. COTTEN.	G. G. GARDNER.	A. C. KEMP.
BENJ. ROBINSON.	A. T. MCKINNEY.	DAVE KEMP.

To the Hon. the COMMISSIONER OF INDIAN AFFAIRS,
Department of the Interior, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, September 3, 1877.

SIR: Referring to your communication of the 18th June last, inclosing letter from Dr. T. F. Ealy, teacher of the freedmen school at Fort Arbuckle, complaining of the attempt of Governor Overton, of the Chickasaw Nation, to collect from him a tax of \$25 under the so-called permit law of said nation, I have to say that the question of the validity of said law has been submitted to the honorable the Secretary of the Interior, who, on the 27th ultimo, rendered his decision to the effect that the same is null and void, and that all proceedings under it must cease.

He also decides that neither the Choctaws nor Chickasaws have any authority to pass or enforce a law upon the subject of taxation except under the provisions of article 47 of the treaty of April 28, 1866 (14 Stats., 769), in which article the approval of the President of the United States is required in every case.

A copy of said decision is herewith inclosed, and you will at once notify the Choctaw and Chickasaw Nations of its purport, and inform them that the department expects their prompt and strict compliance therewith.

Very respectfully,

J. Q. SMITH, *Commissioner.*

S. W. MARSTON,
United States Indian Agent, Muscogee, Indian Territory.

S. Ex. 74—4

EXHIBIT No. 31. |

OFFICE INDIAN AFFAIRS,
UNITED STATES UNION INDIAN AGENCY,
Muscogee, Ind. T., February 6, 1878.

SIR: I have the honor to transmit for your information and action a letter from Mrs. S. E. Collins, an Indian of the Chickasaw tribe, relative to the so-called permit law of that nation.

The fifth section of that law imposes a fine of \$25 upon every citizen who employs a non-citizen for a greater period than fifteen days without procuring a permit, for which the non-citizen has to pay the twenty-five dollars or be removed from the nation. Mrs. Collins's letter gives a very correct idea of the effect and working of the said law. Many of the citizens are unable to pay the fine; others are unwilling to do so; some did so, and the money paid to the county judges. Injunctions were filed to prevent those from paying it to the treasurer until the decision of the Hon. Secretary of the Interior was made known, and the money returned to those collected from. This decision of the Hon. Secretary was published with letter L, September 3, 1877, of Commissioner J. Q. Smith, in which he directed to "at once notify the Choctaw and Chickasaw Nations of its purport, and inform them that the department expects their prompt compliance therewith."

This office forwarded copies of said decision and letter to Gov. B. F. Overton, to be communicated to the Chickasaw legislature, then in session, for its action.

The governor seems to have failed to do so, or to recommend the repeal of the said so-called permit law, but stated publicly, "at an informal meeting outside of legislative hours, that he would pay no attention to the late Secretary of the Interior order, and that if the legislature would back him with the means and influence, he would enforce and collect the \$25 permit tax, and asked that the permit law remain as it was." See memorial of certain members of the Chickasaw legislature and other prominent men, of October 29, 1877, transmitted to you under date of November 8, 1877.

The farming season is now upon the people; some of them had already commenced preparation for an early planting, but owing to the threat of enforcing the said permit law, some are deterred from employing labor on account of the penalty for so doing. Citizens of the United States do not desire to remain in the country and be subject to what they consider, and is, an unconstitutional, unjust, and illegal tax, when they know their labor is an advantage to those employing them as well as to themselves. Many fields must necessarily remain uncultivated and in consequence thereof a scarcity of breadstuffs the coming season, unless some assurance is given by the Chickasaw farmers and their employes that the decision referred to on the part of the honorable Secretary of the Interior will be enforced and carried out. And as a successful crop depends upon an early planting, I would respectfully ask, for the sake of the prosperity, comfort, and advancement of the industrious people of the Chickasaw Nation engaged in agricultural and pastoral pursuits, that this office be instructed to give these people the assurance so much needed, and at as early a day as practicable.

Very respectfully, your obedient servant,

S. W. MARSTON,
United States Indian Agent.

Hon. E. A. HAYT,
Commissioner Indian Affairs, Washington, D. C.

STONEWALL, CHICKASAW NATION,
January 15, 1878.

SIR: I shall now write a few lines to you to-night on a subject of "permit law." You will please to inform me in a plain English writing in replying to my questions. Well, sir, I have seen the advertisement in the Star Vindicator that the permit law of the said Chickasaw Nation was null and void, and by the meaning of these two words, null and void, in which I understand from the word "null" something that has no force or meaning. But Governor Overton have not decided on the "permit fee"; he wants to make all the renters and owners of the land pay. Our district judge, Love, has already said that all those that have no permit for their renters, he shall make the owner of the land pay \$50. Can't you put a stop to this permit-fee question? It is impossible for us poor folks to get any money in this country to pay such fee.

There is good many of my native neighbors have no corn right now. If they had renters, why, of course, they would have had a plenty corn to bread them and feed to their stocks, but here they have no way to get white renters. Only those that had white folks, renters, have some breadstuff. We have a renter, name of E. Smoot, a United States citizen; he is of a true and honest man; he shall be our farmer for twelve months. Will you be so kind as to grant me a permit for said farmer Smoot? I am a woman that requesting you of this question. My husband is living, but he is a preacher; he has to go to his appointment,

and, therefore, he cannot make no living for his family. I cannot farm; so I am obliged to have a renter. You will please to aid me in this. I had been thinking that the permit question was done away, but it is getting up again.

I will now soon close my writing. Excuse all my mistakes. I will now await for an answer to my letter as soon as possible before the 28th instant. I and my husband are Chickasaw Indians; no white about but taken for white folks.

I am, respectfully, yours,

S. E. COLLINS.

P. S.—DEAR SIR: After writing, I think I had forgot to mention Mr. J. A. Fox, our farmer last year. After all you had signed your name to his permit the Governor Overton's militia came and made him pay again. I hope the permit which you would grant me would not be the same. Will you be so kind as to let me have a good permit for my renter, E. Smoot? He is true and honest, and local preacher of M. E. Church, South.

I remain, yours, truly,

S. E. COLLINS.

To the Hon. Agent MARSTON,
Muscogee, Creek Nation.

EXHIBIT No. 32.

TISHOMINGO, CHICKASAW NATION,
January, 23, 1878.

DEAR SIR: The petition of Isaac Butterworth was received by Governor Overton, and he requested me to say that Mr. Butterworth will have to come before some judge of our courts and make oath to the amount of capital he proposes to invest in stock, and pay one per cent. on the amount invested to the nation "the tax required of licensed traders," and then he can make applications to the county clerk of the county in which he wishes to trade, and upon the payment of \$25 for each permit the clerk will issue them.

Very respectfully,

ROBT. L. BOYD,
National Secretary, Chickasaw Nation.

Hon. L. C. TRUE,
Cheopta, Labette County, Kansas.

EXHIBIT No. 33.

HOUSE OF REPRESENTATIVES,
Washington, D. C. March 4, 1878.

DEAR SIR: The inclosed communication was sent to me to present to your department, and ask that early consideration be given it. This I do, but am not sufficiently familiar with the rulings of your department to volunteer any suggestions touching it.

I will venture to say however, that it does appear to me that many things are being done by the Indian authorities, doubtless with a view to prevent the territorializing of their country, which to my mind, if not already convinced, would be convincing proof of the necessity of an act creating a Territorial government for that country.

Your obedient servant,

JORDAN E. CRAVENS.

Hon. CARL SCHURZ,
Secretary of the Interior.

FORT SMITH, ARK., *February 26, 1878.*

SIR: I write to you in connection with the removal of white men from the Indian country who had leased land from Indians and performed their part of the contract, but whom the Indian authorities now wish to remove from the country. I wrote to the United States Indian agent at Muscogee, who in reply used the following language: "Referring to yours of the 31st ultimo, I have to refer you to United States Statutes Revised, section 2116, as to penalty of leasing land from Indians. * * * From their own statement they seem to have went beyond United States law." In reply I wrote the following communication to the agent:

"S. W. MARSTON, esq., *United States Indian Agent* :

"In your letter of February 21, you refer me to section 2116 of the United States Revised Statutes as to the penalty of leasing land from Indians. I have examined the section referred to, and find that it does not refer to individuals. You will perceive on further examination that the section referred to relates to the selling, leasing, &c., of land by the Indian nations or tribes. It has no reference whatsoever to individuals, and there is no prohibition in the United States Statutes against Indians, I mean individual Indians, leasing lands to white men. The leasing of land therefore is not in violation of any law of the United States, neither was it at the time this lease was made, in violation of any law of the Choctaw country. To be sure there was a law forbidding Indians (Choctaws) to alienate, but there was no law forbidding them to lease; on the contrary, it was the law of the country, recognized by all. Nothing has been more common in the past and it was not until last October, 1877, that the Choctaw authorities made any change in the law. At that session of the Choctaw council, a law was passed forbidding Indians to make leases, but in that law the validity of existing leases is recognized, and lessors are required before they can terminate the leases, to pay the lessees the value of their improvements. But we apprehend it did not require this recognition of their validity by the Choctaw authorities to make them good in law, because these leases were taken in good faith by the lessees, who, as I have said, were not forbidden to do so, either by the laws of the United States, or the laws of the Choctaw Nation. As the right to lease was not forbidden, either by the United States laws or the Choctaw Nation when this particular lease was made, it was entirely valid and binding on all parties; and the Government of the United States would not permit the Choctaw authorities to declare it invalid, had they attempted to do so; it would certainly have protected the vested rights of its citizens entered into in good faith and not in violation of any existing law. But the Choctaw Nation recognize the validity and binding obligation of these leases so made, and there is clearly no reason why the United States authorities should interfere in this case to pronounce them void. Your predecessor in office recognized the validity of these leases in at least two cases here. One was the case of Reynolds and Freeman. Reynolds, an Indian, had leased land to Freeman, a white man, who was to make certain improvements. The improvements being made, Reynolds called upon the agent to remove Freeman, but after coming here and investigating the matter, he decided in favor of Freeman. His ruling was the same in the case of McCarty, and I am satisfied the rulings were correct and strictly in accordance with the late rulings of the Secretary of the Interior.

"The Secretary says that the Indian authorities have no right to remove white men; that this is a matter which in every instance must be referred to the United States agent. Then he goes on and decides in what instances it is the duty of the agent to interfere and have them removed. And further on he enumerates the cases when the agent must not interfere, and these are in the case of teachers, mechanics, and skilled agriculturists, but on the contrary, he must see that the rights of these are protected. Now, these men, Warrington and Casey, leased from the administrator when leases were not forbidden. They improved about 150 acres of land and undertook the payment of a debt against the estate. They have now proceeded to prepare their land for a crop, have all their effects on the place, corn, cattle, horses, mules, hogs, &c., and in view of the fact that they have a good right to occupy this place, it would be a great hardship as well as injustice that they should now be dispossessed. The court will meet on March 4, and will then render judgment in this cause. These men are honest and industrious, and I can refer you to every man in Fort Smith who knows them. I trust you will not fail to communicate with the Indian authorities, and if you are not satisfied with the case as made, please refer the matter to the Secretary of the Interior, to whom I will send a copy of this communication."

The Indian authorities here claim the right to eject these men, and the sheriff has been heard to say he will remove them very soon of the county-court acts. I trust you will give this matter your early consideration and communicate with the agent here.

Very respectfully,

P. J. M. McGEERY,
Attorney at Law.

Hon. CARL SCHURZ,
Secretary of the Interior.

EXHIBIT No. 34.

WASHINGTON, D. C., March 1, 1878.

SIR: I have been sent to Washington by the farmers of the Chickasaw Nation to ascertain if the Department of the Interior would not afford them relief from the exorbitant tax on labor to which they are now subjected by the Chickasaw legislature, in plain defiance of the forty-third article of the treaty of Choctaws and Chickasaws, 1866, and of the official decision of the Secretary of the Interior of date the 28th of August, 1877.

I wish to know, in behalf of thousands of industrious farmers in my nation, whether the

department will afford us any relief. If it does not, we are left the alternative of allowing our farms to go to waste, or of defending what we know to be our rights the best we can.

Very respectfully,

LEM REYNOLDS,

Delegate from the Farmers of the Chickasaw Nation.

Hon. A. H. GARLAND,
United States Senator.

[Indorsement.]

UNITED STATES SENATE, *March 4, 1878.*

Hon. SECRETARY OF THE INTERIOR :

Please look into this matter and give me such information as you can. I do not know that I am prepared to express an opinion about it, but I would be glad to have your suggestions. I think the matter worthy of an examination.

Truly yours,

A. H. GARLAND.

EXHIBIT No. 35.

RED RIVER VALLEY,
CHICKASAW NATION, INDIAN TERRITORY,
March 4, 1878.

DEAR SIR: I address you this letter on a very important question that is agitating the public mind in these parts. Are you in sympathy with the \$25 permit that is being enforced in this nation, and have you given it your hearty approval and encouragement?

This is a question of very grave importance, especially to those who do not enjoy even the necessaries of life. It is in behalf and at the earnest request of these that I write you. His excellency Gov. B. F. Overton says he will collect the permit (\$25) or sink the nation. Will you, Mr. Schurz, co-operate with the governor in collecting this unjust permit? Will you give him access to the Federal troops to use them at his discretion in forcing \$25 out of the poor who are eking out a scanty sustenance? With these it actually is impossible. Now, what is to be done with these? It is really heart-rending to see this criminal waste of the people's money, taken by force at the point of the bayonet; desolate homes, aching hearts, weeping children, heart-broken mothers deprived of their only home. If you could have been here last May and witnessed the proceedings of Overton & Co., you surely would have been moved to compassion. Grim, defiant, short spoken, not a morsel of leniency, was the general make-up of the leader. Many—yes, very many—kegs of whisky were emptied. I do not wish you to understand that I am trying to belittle any one, but what I have said I have said, and it can be substantiated. There is getting quite an uproar here about the permits, and various rumors are on the wing. I have been asked by numerous individuals to write to you for the facts, as your decision will be taken as final. Your reply and decision will be waited for with much anxiety by a host of people, as it will seal our doom for weal or woe, and we have resolved to abide by it.

I have no doubt, Mr. Schurz, but what you have been bored considerably with letters of this kind, but remember there have been none received from you in these parts. Please do not pass this by, but answer in as satisfactory a manner as your inclination will permit. I would here say that the official reports you receive about the country needing purging, &c., as an excuse for the permit, is very much exaggerated. It is for theft and nothing else, as the officials only are benefited. Hoping that the above will meet with your favorable consideration, and that you will answer this and relieve the minds of many,

I am, truly, your obedient servant,

PETER B. ARTHUR,
Marysville, Cooke County, Texas.

Hon. CARL SCHURZ,
Secretary of the Interior, Washington, D. C.

A native of Huntington, W. Va., and a four-year resident of Chamois, Mo.

Any documents giving light will be thankfully received and paid for.

There are gigantic frauds or swindling concerns in daily operation in these parts. The government is being swindled enormously. I will not mention anything, as my life would be endangered was it made known.

Please hand this to the United States secret service, and if they wish to communicate with me they must do it in cipher, as I would not do it otherwise. If they will grant me pro-

tection, I will tell all I know. Should you wish to communicate with me, write in cipher thus, 13, 14, 15, 16,

A, B, C, D, E, &c.

Can furnish good reference.

Respectfully,

PETER B. ARTHUR,
Formerly of Huntington, W. Va.

EXHIBIT No. 36.

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 2, 1878.

MY DEAR SIR: I learn from Colonel Boudinot that some weeks ago you addressed a letter to the Secretary of the Interior, calling his attention to the fact that the authorities of the Chickasaw Nation had treated with contempt and defiance his decision, made officially last August, that the law passed by the Chickasaw council, taxing white labor \$25 per annum, was null and void.

It is a fact that Governor Overton, of the Chickasaw Nation, has treated with contempt the said decision of the Secretary, and boasts that he will drive every white laborer out of the nation who refuses to pay the exorbitant tax.

I come here at the request of many industrious farmers of the Chickasaw Nation, who are driven to the alternative of allowing their farms to go to waste or defending the order of the Secretary, if he will not vindicate it himself. Will you be so kind as to ascertain officially from the Secretary if he intends to take any steps to enforce his order and protect the farmers of the Chickasaw Nation from this unjust tax?

Very respectfully,

JEM REYNOLDS.

Hon. D. W. VOORHEES.

[Indorsement.]

I respectfully refer this letter to the honorable Secretary of the Interior, with the request that he will render me such information as he may find consistent with his sense of public duty.

D. W. VOORHEES.

EXHIBIT No. 37.

BURNEYVILLE, CHICKASAW NATION,
March 17, 1878,

SIR: We, the undersigned, citizens of the United States, and residents of the Chickasaw Nation, write to you in relation to the permit law now in force in this nation; whether it is lawful or not for the officers of this nation to tax non-residents twenty-five dollars per annum for the privilege of living in this nation.

We have been invited and persuaded to come here by the natives of this place. We have improved their lands, built their houses, and made their heretofore-uncultivated lands a fertile country. The majority of us have not the money to pay this permit fee, and when the collector comes around and we fail to pay the required amount, we are forced to leave everything, and are driven out of the country; our time, labor, and money spent in improving is all lost.

There are three or four thousand non-residents in this nation precisely in the same situation as your correspondents, and we earnestly request that you will favor us with a reply in reference to this matter, whether it is legal or otherwise for us to be taxed twenty-five dollars per annum for the privilege of living in this nation.

By so doing you will oblige many citizens.

W. F. CORMISH,

Burneyville, Chickasaw Nation, Indian Territory, via Civil's Bend.

To the SECRETARY OF THE INTERIOR.

EXHIBIT No. 38.

FORT SILL, INDIAN TERRITORY,
March 29, 1878.

SIR: Having rented a farm in the Chickasaw Nation, and having most of my crop in, I am now informed that there is a tax of \$25 for each one of us that works on the farm, and that if we do not pay the above amount we are liable to be taken out of the Territory. It was done to a number of parties, I am informed, last year. Please inform me if any one in the nation has a right to eject us from our home when we are paying rent to a citizen the nation.

I have made the above inquiry not only for myself, but for other renters of farms, and their request.

Yours, &c.,

WM. WILLIAMS, JR.,
Fort Sill, Indian Territory.Hon. C. SCHURZ,
Secretary of the Interior.

EXHIBIT No. 39.

COLBERT'S STATION, CHICKASAW NATION,
April 20, 1878.

HONORABLE SIR: With your permission, would like to ask a question in regard to the permit law in the Chickasaw Nation. I am a citizen of the United States, residing in the Territory, having a flouring-mill rented at Colbert's Station, and also my own miller. Can Gov. B. F. Overton compel me to pay the \$25 tax for myself and engineer? I have resided in the country for five or six years.

An answer will oblige,

Yours, very respectfully,

JOHN MALCOLM.

To the SECRETARY OF THE INTERIOR.