

MEMORIAL  
OF THE  
CHOCTAW NATION,  
ASKING

*For a settlement of their claims arising under the treaty of 1855.*

MAY 1, 1878.—Referred to the Committee on Indian Affairs.  
MAY 2, 1878.—Ordered to be printed.

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

The Choctaw Nation humbly prays that an act be passed authorizing the Court of Claims to ascertain and render judgment for the amount due under the following articles of the Choctaw and Chickasaw treaty of 1855, namely:

ARTICLE XI. The Government of the United States not being prepared to assent to the claim set up under the treaty of September 27, 1830, and so earnestly contended for by the Choctaws as a rule of settlement, but justly appreciating the sacrifices, faithful services, and general good conduct of the Choctaw people, and being desirous that their rights and claims against the United States shall receive a just, fair, and liberal consideration, it is therefore stipulated that the following questions be submitted for adjudication to the Senate of the United States:

“First. Whether the Choctaws are entitled to, or shall be allowed, the proceeds of the sale of the land ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected; or,

“Second. Whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States; and, if so, how much.”

ARTICLE XII. In case the Senate shall award to the Choctaws the net proceeds of the lands ceded as aforesaid, the same shall be received by them in full satisfaction of all their claims against the United States, whether national, or individual, arising under any former treaty; and the Choctaws shall thereupon become liable and bound to pay all such individual claims as may be adjudged by the proper authorities of the tribe to be equitable and just; the settlement and payment to be made with the advice and under the direction of the United States agent for the tribe; and so much of the fund awarded by the Senate to the Choctaws as the proper authorities thereof shall ascertain and determine to be necessary for the payment of the just liabilities of the tribe shall, on their requisition, be paid over to them by the United States. But should the Senate allow a gross sum in further and full satisfaction of all their claims, whether national or individual, against the United States, the same shall be accepted by the Choctaws, and they shall thereupon become liable for and bound to pay all the individual claims as aforesaid; it being expressly understood that the adjudication and decision of the Senate shall be final. (11 Stat. at L., page 611.)

which articles were subsequently considered by the Senate, and its decision was expressed on the 9th March, 1859, in the following resolutions:

Whereas the eleventh article of the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians provides that the following questions be submitted for decision to the Senate of the United States:

"First. Whether the Choctaws are entitled to or shall be allowed the proceeds of the sale of the lands ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall be allowed to the Choctaws for the land remaining unsold, in order that a final settlement with them may be promptly effected; or,

"Secondly. Whether the Choctaws shall be allowed a gross sum in *further* and full satisfaction of *all* their claims, national and individual, against the United States; and, if so, how much?"

*Resolved*, That the Choctaws be allowed the proceeds of the sale of such lands as have been sold by the United States on the 1st day of January last, deducting therefrom the costs of their survey and sale, and all proper expenditures and payments under said treaty, excluding the reservations allowed and secured, and estimating the scrip issued in lieu of reservations at the rate of \$1.25 per acre; and, further, that they be also allowed 12½ cents per acre for the residue of said lands.

*Resolved*, That the Secretary of the Interior cause an account to be stated with the Choctaws, showing what amount is due them according to the above-prescribed principles of settlement, and report the same to Congress.

(Senate Journal, second session Thirty-fifth Congress, page 493.)

In compliance with these resolutions, the Secretary of the Interior, on the 8th May, 1860, reported to Congress that the balance due the Choctaws was \$2,981,247.30. (H. Ex. Doc. 82, first session Thirty-sixth Congress, p. 25.)

The Indian appropriation act approved March 2, 1861 provided:

For payment to the Choctaw nation or tribe of Indians, on account of their claim under the eleventh and twelfth articles of the treaty with said nation or tribe, made the twenty-second of June, eighteen hundred and fifty-five, the sum of five hundred thousand dollars; two hundred and fifty thousand dollars of which sum shall be paid in money, and for the residue, the Secretary of the Treasury shall cause to be issued to the proper authorities of the nation or tribe, on their requisition, bonds of the United States, authorized by law at the present session of Congress: *Provided*, That in the future adjustment of the claim of the Choctaws, under the treaty aforesaid, the said sum shall be charged against the said Indians. (Statutes at Large, vol. 12, p. 238.)

Of that appropriation \$250,000 was paid to the Choctaws in April 1861. No part thereof has since been paid either in money or bonds.

On the 16th July, 1868, an amendment was inserted by the Senate in the Indian appropriation bill, which became a law, requiring "that the Committees on Indian Affairs of the Senate and House of Representatives shall examine the claim of the Choctaw and Chickasaw Indians for all matters of difference between them and the Government of the United States, and shall report the result of said examination to their respective houses at the next session of Congress." (15 Stat., 223.)

In obedience to this requirement the Indian Committee of the Senate reported on the 10th April, 1869, its recommendation that the question of obligation to pay the Choctaw claim should be referred to the Committee on the Judiciary, which was done. (Globe, April 10, 1869, p. 718.)

At the next session, on the 22d June, 1870, the Judiciary Committee reported by bill, No. 973, providing for the issue of bonds in payment of the Choctaw claim. The bill was moved as an amendment to the civil appropriation bill, and on the 12th July, 1870, the amendment was rejected on the ground that it was not appropriate to that bill.

The Indian appropriation act, approved March 3, 1871, contained the following clause:

And the Secretary of the Treasury is hereby authorized to issue to the Choctaw tribe of Indians bonds of the United States to the amount of two hundred and fifty thousand dollars, as directed by the act of March 2, 1861, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes." (16 Stat., 570.)

The authority thus given was suspended two years afterward in the act approved February 14, 1873, making appropriations for the Indian Department, in the following clause :

SEC. 3. That all authority now existing by the acts of March 2, 1861, and March 3, 1871, or otherwise, to issue or deliver any bonds of the United States to the Choctaw tribe of Indians, is hereby suspended until the further action of Congress in the matter and providing for such issue and delivery. (17 Stat., 462.)

The origin of this clause is referred to in another, found in the sixth section of the same act :

That there shall not be paid or allowed to any person whatever any fees or reward for services in connection with the subject-matter referred to in the 3d section of this act either on account of the United States or of the Choctaws, until further action of Congress in the matter, and providing for such action and payment. (17 Stat., 463.)

The suspending clause was based upon a report which was prepared by attorneys who had undertaken to defeat the delivery of the bonds for a contingent fee of \$30,000, under a contract printed on page 1084 of the Globe of February 4, 1873.

The third section of the sundry civil appropriation act of June 23, 1874, provides :

That the Secretary of the Treasury is hereby directed to inquire into the amounts of liabilities due from the Choctaw tribe of Indians to individuals, as referred to in articles 12 and 13 of the treaty of June 22, 1855, between the United States and the Choctaw and Chickasaw tribes of Indians, and to report the same to the next session of Congress, with a view of ascertaining what amounts, if any, should be deducted from the sum due from the United States to said Choctaw tribe, for the purpose of enabling the said tribe to pay its liabilities, and thereby to enable Congress to provide a fund to be held for educational and other purposes, for said tribe, as provided for in article 13 of the treaty aforesaid. (18 Stat., 230.)

In compliance with this direction Secretary Bristow made a full report, which was printed as Ex. Doc. H. R. No. 47, second session Forty-third Congress.

This report was referred in December, 1874, to the Committee on Appropriations of the House of Representatives. A favorable report was made from that Committee, and during the same session from the Indian Committee. An amendment was offered in accordance with these reports to the pending appropriation bill on the 19th January, 1875, which failed, mainly, as the debates indicated, on the ground that it ought to be considered as a separate measure.

In June, 1876, a bill was reported from the House Committee on Indian Affairs, authorizing the Court of Claims to ascertain how much was due the Choctaws, and directing the Secretary of the Treasury to pay the amount of any final judgment that might be rendered in their favor. It could not be reached in its regular order on the calendar, and was therefore never considered by the House.

The same bill was introduced during the first session of the present Congress, and referred to the House Committee on Indian Affairs. The result was that on the 26th February last two reports were made, which are printed in H. R. report No. 251, second session Forty-fifth Congress, to which especial attention is requested.

Both reports urge a speedy settlement, one by referring the Choctaw claim back to the Senate for reconsideration, proposing for that purpose, by order of the committee, the bill H. R. 3550. The other, from the minority, signed by Messrs. Hooker, Throckmorton, Gunter, Van Vorhes, and Townsend, of New York, recommends the bill H. R. No. 980, referring the case to the Court of Claims, with an appeal to the Supreme Court, and directing the Secretary of the Treasury to pay the final judgment, whatever it may be; being substantially the same bill reported from the same committee during the Forty-fourth Congress.

In addition to these two there have been from time to time twelve other reports from different committees—some of the Senate, others of the House—made since the passage of the Senate resolution of March 9, 1859, all in favor of the claim—not one against it; yet, so far as legislation is concerned, nothing has been effected in the way of adjustment since the appropriation of March, 1861.

The difficulty indicated in the early debates in both houses seems always to recur. On the one hand, there has been an apparent unwillingness to be governed by the reports of committees in a case involving so large an amount and so wide a divergence in the sums at different periods recommended to be paid. On the other hand, the vast accumulation of business has always precluded an exhaustive examination, if, indeed, such a thing were practicable on the floor of either house. It was said in the Senate on the 14th of June, 1860, when the first appropriation to pay the Choctaw claim was proposed, that the "Senate was no place to strike a balance between claims and payments." (*Globe*, p. 2963.) It was said, again, in another debate on the 2d of February, 1861, that "A majority of this Senate \* would not investigate such questions." (*Globe*, p. 707.) Substantially the same thing was said in the House on the 23d of February, 1861, on the same subject:

If we were to bring in fifty bills and ask the House to investigate, gentlemen would be no better prepared to vote than they are now. (*Globe*, p. 1156.)

Whether any of these remarks were or were not justifiable it is not for the undersigned to say. If a sufficient number of Senators would give their claims the requisite scrutiny, the Choctaws would prefer that tribunal to any other. But twenty years' experience justifies the apprehension that the pressure of other duties might preclude the possibility of such personal examination as a majority of Senators might consider an essential prerequisite to a favorable decision. It is that view of the case suggested by the past history of this claim that induced the Choctaws in the first place to ask for a reference to the courts. It is that view of the case which now induces them to prefer the bill reported for that purpose.

By its delegate,

THE CHOCTAW NATION,  
P. P. PITCHLYNN.

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\* Mr. JOHNSON, of Arkansas. You must have a thorough investigation. Will the Senator from Maine make it? No, sir; he will not do it.

Mr. FESSENDEN. No.

Mr. JOHNSON. Not a bit of it; you are candid and frank in saying so, for I believe it. You will not. Who will? Will a majority of this Senate make it? Did they ever make it upon any question that ever came before us, unless it was the slavery question? Never in my day. How, then, shall we have a full investigation? I should be pleased to know.—*Debate on appropriation to pay Choctaw claims, February 2, 1861, Globe, p. 707.*