

MEMORIAL
OF THE
CHOCTAW NATION OF INDIANS,
REMONSTRATING AGAINST
The establishment of a territorial government over their country.

JANUARY 31, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

REMONSTRANCE AND APPEAL OF THE CHOCTAW NATION OF INDIANS AGAINST PROPOSED VIOLATIONS OF SOLEMN AND REITERATED ENGAGEMENTS, COMPACTS, AND ASSURANCES MADE WITH AND GIVEN TO THE CHOCTAW PEOPLE BY THE UNITED STATES, AND PROPOSED INFRACTIONS BY VIOLENCE AND FORCE OF THEIR VESTED RIGHTS OF PROPERTY AND PROPRIETORSHIP OF THEIR LANDS.

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

The Choctaw Nation, by its delegate and representative, has already united with those of the tribes that are its neighbors in solemnly protesting against the enactment into laws of any or either of the bills now before, or which may come before, Congress for the establishment of a territorial government over their country.

But that protest contains no exposition of the special and principal grounds upon which the Choctaw people are entitled to protest against the said bills, and they therefore ask that this, their separate remonstrance and appeal, may also be considered, and that they may be heard in defense of their rights at the bar of each House of Congress.

They do not appeal to the generosity of Congress, but they interpose as a barrier between themselves and the ruin and destruction that is threatened, the solemn engagements, the reiterated pledges, the repeatedly renewed assurances, the obligations which no oaths could have made more sacred and solemn, of the United States; the faith and honor of the nation to which they have trusted, and shielded by which they have until lately felt themselves secure. They ask only that their rights of self-government and of property, so guaranteed, shall be respected.

The bill introduced into the House of Representatives "to organize the Territory of Oklahoma, and consolidate certain Indian tribes under a territorial government," proposes to erect into a Territory of the United States the Indian country west of Arkansas and part of Missouri, between Kansas and Texas, and east of the 100th meridian of west longitude, with a governor and secretary appointed by the President, and a legislative council elected by the people of the several tribes, or of the chief or chiefs, and head men of the tribes.

The said bill proposes to invest the legislative council with power to

create corporations, with all adequate powers for the construction and operation of works of internal improvement, and thus to invest the said council with the right of eminent domain, and the power to provide for the right of way for such corporations, and the right to take lands without the consent of the nations owning them, for the necessary erections upon all roads which it may authorize to be builded.

It proposes to invest the council with the power to *grant aid* to all such corporations—of course with the lands or moneys of the respective nations—as the council could have no control of any other means, unless it is to be invested with the power of taxation.

It proposes to invest the council with the general powers of punishing crimes, and of providing for the civilization and improvement of the people; a vague and comprehensive grant of power, whose limits the wit of man cannot define.

It provides for the creation of a supreme court and district courts, the latter with the powers of the circuit and district courts of the United States, under the laws applicable to the Indian country, which by a subsequent section are all the laws of the United States not locally inapplicable, nor inconsistent with treaty stipulations.

And, as a part of this scheme, without which it would not be urged, after allowing to each member of the Choctaw and Chickasaw Nations one quarter section only of their own lands, to which the United States has no shadow of right or title of any sort or kind, and giving certain quantities to missionaries and religious societies, and a quarter section to every freedman and person of color, male and female, infants and adults, the bill proposes to *confiscate* the whole residue of the lands owned by the Choctaw and Chickasaw people in fee-simple, and that the United States shall hold them as part of their public lands, and dispose of them, and hold the proceeds in trust for the Choctaw and Chickasaw Nations; with power, by implication, to grant alternate sections to railroads.

The Choctaw people are fully aware that if such a law is enacted in utter violation of solemn treaty stipulations and of their vested rights of property, the singular spectacle will be presented to the world of a whole people deprived of national and individual rights and of their lands without any means of redress; and of a great civilized and Christian country, which, perpetrating such wrongs, closes the doors of its courts against all complaints; or, if these are opened, constrains its courts to decide that the most solemn compacts and contracts contained in a treaty with an Indian nation, a ward of the United States and under their *protection*, may be violated and annulled at pleasure, even while the ink on the treaty is not yet dried, by an act of Congress, which the pledges and obligations, the engagements and assurances, the good faith and honor and common honesty of the nation forbade it to pass, and which it has again and again solemnly bound itself *never* to pass.

By the treaty of 1820 the United States *ceded* to the Choctaw Nation the country which they now hold and own, and much more, without any qualification of the term “cede,” to be the *permanent* home of the nation. The word “cede” made an absolute grant in fee-simple.

In 1825 President Monroe urged the acquisition of the country west of Missouri and Arkansas, to establish there permanent settlements of the Choctaw and other tribes; and the Secretary of War recommended that “*the strongest and most solemn assurances should be given the said tribes that the country given them should be theirs as a permanent*

home for themselves and their posterity, without being disturbed by the encroachments of citizens of the United States."

By the treaty of 1825 it was stipulated that the United States should not exercise the power of apportioning the lands of the Choctaw Nation, and of bringing them under the laws of the United States, except with the consent of the Choctaw Nation.

In May, 1830, the title of the Choctaw people to their lands west of the Mississippi obtained even a higher guarantee than that of a treaty; for, by the act of Congress of May 28, the President was authorized "solemnly to assure" the tribe or nation with which lands west of the Mississippi might be exchanged for lands east of it, "*that the United States would FOREVER secure and guarantee to them and their heirs and successors*" the country so exchanged with them; and, "if they should prefer it, that the United States would cause a *patent* or *grant* to be made and executed to them for the same."

In pursuance of which act of Congress, by the treaty of September 27, 1830, the United States promised to "cause to be conveyed to the Choctaw Nation a tract of country west of the Mississippi River IN FEE-SIMPLE to them and their descendants, to inure to them while they should exist as a nation and live on it;" and the boundaries of the country were described and fixed. *And in accordance with their promise, a patent in fee-simple WAS issued to the nation for the whole of their country west.*

By the treaty of 1855, the limits of the Choctaw and Chickasaw country were defined, and then the United States do, by the first article, in pursuance of the act of 1830, "*forever secure and guarantee the lands embraced within the said limits to the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common;*" so that *each member of either tribe should "have an equal undivided interest in the whole,"* with a proviso, that *no part of them should ever be sold "without the consent of both tribes."*

The treaty of 1866 *fully* recognizes the title of the Choctaws and Chickasaws to their lands, and solemnly re-affirms *all* obligations arising out of treaty stipulations or acts of legislation with regard to the two nations, entered into prior to the rebellion, and then in force, not inconsistent with itself. It recognized the fact that the lands "are held by the members of said two nations in common," under the provisions of the treaty of 1855, and it provided that no survey of the lands should be made unless *both* the Choctaw and Chickasaw people should each, by its legislature, agree to the surveying and dividing of their lands.

The lands occupied by the Chickasaws *have* been surveyed *against the formal protest of the Choctaw people*, after they had, with almost entire unanimity, *refused* to consent to a survey, a former Secretary of the Interior deliberately violating the treaty of 1855, and the rights of the Choctaws in that regard, and expending the money of the United States in making a survey (his consent to which had been obtained by sinister influences) in direct defiance of the law of the land.

In article IV of the treaty of 1830 are these positive and express words:

The Government and people of the United States *are hereby OBLIGED to secure* to the said Choctaw Nation of red people *the jurisdiction and government* of all the persons and property that may be within their limits west, *so that no Territory or State shall ever have a right to pass laws for the government of the Choctaw Nation of red people and their descendants;* AND THAT NO PART OF THE LAND GRANTED THEM SHALL EVER BE EMBRACED IN ANY TERRITORY OR STATE, but the United States shall FOREVER secure the said Choctaw Nation from and against ALL laws, *except such as, from time to time, may be enacted*

IN THEIR OWN NATIONAL COUNCILS, not inconsistent with the Constitution, laws, and treaties of the United States; and except such as may, and which have been, enacted by Congress, to the extent that Congress under the Constitution are *required* to exercise a legislation over Indian affairs.

The Choctaw people did agree, by the treaty of 1866, to the convening annually of a council of delegates from each nation and tribe lawfully resident within the Indian Territory, with certain limited legislative powers, specially expressed in the said treaty; to the establishment of a court or courts therein; and that the superintendent of Indian affairs should be the executive of the Territory, with the title of "Governor of the Territory of Oklahoma," with only such powers as properly belong to an executive officer charged with the execution of the laws which said council was authorized to enact. And if the bill in question was an honest and fair attempt to carry into effect the provisions of the treaty in regard to such organization, the Choctaw people would have no right to complain; but they do show unto Congress that it is an unfair and dishonest attempt, scheme, and plot, for sinister purposes, to *pervert* the said treaty, and further the interests and content the greed of a hungry band and combination of vultures, of the same class as those by whom the Choctaws were fleeced and plundered, and the United States dishonored, in Mississippi; which will unmistakably appear from the additions proposed to be made to the powers of the council, and from the plan of confiscation of the lands of the Choctaws, Chickasaws, and other tribes.

The treaty provides that the council's legislative power shall extend to "subjects and matters pertaining to the intercourse and relations of the Indian *tribes* and *nations*, resident in the said Territory;" and the bill interjects here the words "and *members* of different tribes resident in said Territory." For the last clause of the phrase, "the administration of justice between members of the several tribes of the said Territory, and *persons other than Indians and members of said tribes or nations*," the bill substitutes the words "and *all other persons*," in direct contravention of the language and intention of the treaty. It gives the power to create corporations, and to grant aid to such bodies, which are not found in the treaty; and, to the agreement in the treaty, it adds the broad powers contained in the words "the punishment of crimes and the civilization and improvement of the people."

It makes the governor a part of the legislative power, and his consent necessary to every law, rule or regulation adopted by the council; makes him commander-in-chief of the militia, and invests him with other powers not only not recognized, but excluded by the treaty.

The Choctaw people do most earnestly insist that all these additional legislative and executive powers and extensions of jurisdiction are of mischievous intent, and therefore those that are meant to be most *available* are couched in broad and general terms; and they do most earnestly remonstrate against the creation of a territorial government with such enlarged powers, or with any powers whatever, except those expressed in the very words of the treaty. For they know that every change is dangerous to them, and will be used to the utmost to destroy their domestic governments; and that the limitations in their behalf will prove like withes of straw in a devouring flame, when the bad and *intended* work of usurpation and encroachment shall commence, and they are taxed and plundered for the benefit of organized bands of thieves that already "scent the prey afar off," and whose clamor is already heard at the doors of Congress.

And in regard to their lands, the Choctaw people, for themselves and

their brothers, the Chickasaws, represent that the lands are theirs in fee-simple, with only a right of escheat to the United States in case of their extinction or removal; that they are *their own* lands, bought and paid for, with the absolute and perfect title secured to them by act of Congress, by solemn treaties, and by patent under the great seal of the United States; that Congress has no more power or right to take them from them, or partition them among them, or take them into its hands for sale, than it has to take the houses and grounds of individual citizens of the city of Washington; that to the plan for surveying, partitioning, and disposing of their lands, contained in the treaty of 1866, their assent was necessary, which having been expressly and positively *refused*, all that part of the treaty is a dead-letter; that every word contained in the bill, in regard to surveying and selling their lands, will be null and void, and if carried into effect will constitute a flagrant act of robbery that would forever dishonor any nation under heaven, and which no one would be bold enough to *attempt* but for the fact that in this civilized country the Choctaw and Chickasaw people could not be heard in any court to vindicate their title to their lands, and the patent for those lands and the great seal of the United States would be worth no more to them, if the bill were to pass, than a dirty and dishonored rag, itself the measure *then* of the faith and honor of the United States.

And if the Choctaws and Chickasaws *had* assented to the survey and partition of their lands, in accordance with and under the treaty, the bill would be no less shameful; because by the treaty, after the selections made in accordance with it, all the residue of the lands were, (by Articles XXXII and XXXIII,) all the unselected land was "to be the common property of the Choctaw and Chickasaw Nations in their corporate capacities, subject to the joint control of their legislative authorities," and grants of land and patents therefor were to be made and issued, for all the unsettled lands, as those authorities should direct; whereas, by the bill, all such unsettled lands are to become part of the public lands of the United States, to be sold by them, a part granted to railroads, and part sold, and the proceeds held in trust.

By which summary and infamous annihilation of their title, a white population, in defiance of treaty stipulations prohibiting it, would swarm into their country, buy lands and settle there, and the inevitable consequences, the robbery of the lands of individual Indians, by forged conveyances, and all the other appliances of force, fraud, and rascality, so successfully used in Mississippi, and the utter ruin and impoverishment of the Choctaw people, would be the result. And rings of greedy railroad speculators would secure grants of alternate sections, on long lines of projected railroads in every direction, and gorge themselves with the ill-gotten plunder, and bring in new hordes of cormorants, until the Choctaws would be miserable and wretched outlaws and Pariahs in their own land. It would be more merciful to put them to the sword at once. By the treaty of 1830 every Choctaw had a reservation of lands, and those who chose to remain were to become citizens of the United States. Not one in a hundred ever secured his reservation, and in a few years there were no Choctaw land-holders in Mississippi.

The Choctaw people most earnestly pray not to be delivered into the hands of the spoilers. Regarded by the white men, who would flock into their country, as an inferior race, with no rights that any white man is bound to respect, they could not live among the invaders as equals. As a people, they would in a little while disappear, and the great scheme of spoliation, "born in the eclipse and rigged with curses dark," would be consummated.

They do earnestly urge it upon the justice of Congress, that their lands are their own; that they have the unqualified right to divide them among themselves in such quantities as they see fit, and Congress has no right to limit the quantity to be assigned to each, to one hundred and sixty acres; for the *individual Choctaw and Chickasaw people, as individuals, own the land in common*, and have the right, absolute and unqualified, to divide every acre of it among themselves if they see fit.

And they do respectfully but most urgently insist, that *they* are entitled to the benefits of the real value of their lands and to sell them at their own prices, or for the highest prices they will bring, to whomsoever *they* please, and when and as *they* please, and to receive and distribute among themselves the price. If sold by themselves they will obtain something like their value. If sold by the United States, at a minimum price, the Choctaw people will largely lose, and every dollar so lost will be wrongfully taken from them.

The Choctaw people do not desire to comment upon the simple facts that they have stated. Rhetoric would add nothing to their force. Standing upon their rights, relying on the most solemn and sacred guarantees, holding as their muniment of title the repeated stipulations of treaties, and the patent and absolute grant of the United States, they claim the performance of promises, the sanctity of guarantees, the observance of obligations; and if their rights are swept away and annihilated, it will only be when the faith and honor of the United States are no more of value, and their grant and patent ceases to give any secure title to that which they have sold, and their most formal promises and assurances no longer protect those to whom they guaranteed the right of self-government by means of laws enacted by themselves.

THE PEOPLE OF THE CHOCTAW NATION,

By PETER P. PITCHLYNN,

Delegate.