

LETTER

AND ACCOMPANYING DOCUMENTS

TRANSMITTED BY

THE SECRETARY OF INTERIOR,

*In response to inquiries of the Committee on Education and Labor as to existence of lands in the Indian Territory available for settlement by the colored population.*

JULY 15, 1882.—Ordered to lie on the table and be printed.

UNITED STATES SENATE CHAMBER,  
*Washington, June 13, 1882.*

SIR: I am directed by the committee of the Senate on Education and Labor to request you to inform the committee what public or unoccupied lands there may be, situate in the Indian Territory, available for appropriation for the purpose of settlement or other disposition by the government.

The committee desire the information in consequence of the application of representatives of the colored population of Kansas and other States for lands suitable for their occupation in organized communities of their own race, and they desire lands situate in that Territory if they can be obtained.

Very respectfully, your obedient servant,

H. W. BLAIR,  
*Chairman.*

The Hon. SECRETARY OF INTERIOR.

DEPARTMENT OF THE INTERIOR,  
*June 15, 1882.*

Respectfully referred to the Commissioner of Indian Affairs for report.

A. BELL,  
*Assistant Secretary.*

DEPARTMENT OF THE INTERIOR,  
*Washington, July 8, 1882.*

Hon. H. W. BLAIR,  
*Chairman Committee on Education and Labor, U. S. Senate :*

SIR: I have the honor to acknowledge the receipt of your letter of the 13th ultimo, requesting on the part of the above committee to be informed as to "what public or unoccupied lands there may be, situate in the Indian Territory, available for appropriation for the purpose of settlement or other disposition by the government"; which information

is required, it is stated, in consequence of the application of representatives of the colored population of Kansas and other States for lands suitable for their occupation in organized communities of their own race.

In reply, your attention is respectfully invited to the inclosed copy of report, dated the 5th instant, from the Commissioner of Indian Affairs, in reply to reference by this department of a communication of the 17th ultimo from Hon. D. C. Haskell, chairman of the House Committee on Indian Affairs, upon the same subject as that presented by you.

The Commissioner, upon a review of the treaty stipulations relating to the subject, expresses the opinion that the most liberal construction that could be placed upon the treaty stipulations would not justify the colonization of the colored people of the United States upon any lands in the Indian Territory.

Very respectfully,

H. M. TELLER,  
*Secretary.*

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, July 5, 1882.*

SIR: I have the honor to acknowledge the receipt, by your reference for report, of a communication from Hon. D. C. Haskell, dated June 17, 1882, submitting a rough draft of a bill "to allow the freedmen of the United States to occupy certain lands in the Indian Territory," prepared by the delegates from a convention of colored persons, held at Parsons, Kans., for an examination thereof, and a report upon the status of the lands of the Indian Territory, and the views of the department as to the merits of the scheme presented in said bill, whether it can be done, and if it can, that a bill be prepared, in accordance with the views of the department, that would develop the points and line of procedure.

In reply thereto the following report is submitted.

At the close of the war many of the Indian tribes who had joined the Confederacy, and who had been in open rebellion against the government, thereby forfeiting (legally) their rights to lands and annuities under former treaties with the government, were anxious to effect an arrangement whereby they might secure a permanent settlement upon and title to the lands in Indian Territory that they occupied before the war, while others, in Kansas and elsewhere, were equally anxious to be settled there in similar security, and the government at the same time desired to avail itself of this opportunity to settle said tribes in said Territory under one government.

In a letter to the Secretary of the Interior, dated Headquarters Department Arkansas, Little Rock, June 28, 1865, Maj. Gen. J. J. Reynolds reported that—

A general council of Indians was held at Camp Napoleon, Chattatomba, on the 24th of May, at which the Cherokees, Choctaws, Chickasaws, Creeks, Comanches, Caddoes, Cheyennes, Seminoles, Osages, Kiowas, Arapahoes, Lipans, Northern Osages, and Anadockees are said to have been represented. A solemn league of peace and friendship was entered into between them, and resolutions were passed expressive of their purposes and wishes.

They appointed a commission of five delegates from each nation to visit Washington, with a view to a negotiation with the government.

Instead of permitting these delegations to visit Washington, a commission, consisting of Dennis N. Cooley, Commissioner of Indian Affairs; Hon. Elijah Sells, superintendent of Indian affairs for the southern super-

intendency; Brig. Gen. W. S. Harney, U. S. A.; Thomas Wistar, of the Society of Friends; and Eli S. Parker, a New York Indian, and afterwards Commissioner of Indian Affairs, was appointed by the President to meet those several delegations from the various Indian tribes at Fort Smith, Ark., for the adjustment and settlement of the freedmen question, and of all matters between the several tribes, and also the United States, growing out of their action and treaty stipulation with the Southern Confederacy, and to negotiate a "treaty or treaties with all or any of the nations, tribes, or bands of Indians located in the Indian country, or in the State of Kansas, and also with the Indians of the plains west of Kansas and the said Indian country."

This commission held a council with the Indians from the 8th to the 21st of September, 1865, and while nothing decisive was accomplished—few of the delegates, if any, being authorized to make treaties—yet, from the views held and announced in that council, the government was better prepared the following year to make treaties carrying out the wishes and views of this council respecting the freedmen question, as well as the question of removal of Kansas and other Indians to the Indian Territory. (See Annual Report of Commissioner of Indian Affairs for 1865, pp. 296 to 353.)

As an aid in construing the provisions relating to freedmen in the several treaties of 1866 with the Indians of the Indian Territory, I invite your attention to the following extracts from the proceedings of that council, one of the objects of the council being the negotiation of treaties that must contain substantially the following stipulations:

1. Each tribe must enter into a treaty for permanent peace and amity with themselves, each nation and tribe, and with the United States.

2. Those settled in the Indian Territory must bind themselves, when called upon by the government, to aid in compelling the Indians of the plains to maintain peaceful relations with each other, with the Indians in the Territory, and with the United States.

3. The institution of slavery, which had existed among several of the tribes, must be forthwith abolished, and measures taken for the unconditional emancipation of all persons held in bondage, and for their incorporation into the tribes on an equal footing with the original members, or suitably provided for.

4. A stipulation in the treaties that slavery or involuntary servitude shall never exist in the tribe or nation, except in punishment of crime.

5. A portion of the lands hitherto owned and occupied by you must be set apart for the friendly tribes in Kansas and elsewhere, on such terms as may be agreed upon by the parties and approved by government, or such as may be fixed by the government.

6. It is the policy of the government, unless other arrangements be made, that all the nations and tribes in the Indian Territory be formed into one consolidated government, after the plan proposed by the Senate of the United States in a bill for organizing the Indian Territory.

7. No white person, except officers, agents, and employés of the government, or of any internal improvement authorized by the government, will be permitted to reside in the Territory, unless formally incorporated with some tribe, according to the usages of the band.

These extracts are the responses of the several delegations only so far as they relate to the third, sixth, and seventh propositions, which are sufficient for the purposes of this report, and are as follows:

7. To this proposition we will respectfully suggest that no person, except our former slaves, or free persons of color now residents of the nation, will be permitted to reside in the nation or tribe unless formally incorporated into the same, except officers, agents, and employés of the government, or of any internal improvement authorized by the government. (Response of refugee Chickasaw delegation, p. 320.)

We respectfully suggest that the seventh article may be modified or changed to read thus: No white person, except officers, agents, and employés of the government, or of any internal improvement authorized by the Government of the United States; also no person of African descent except our former slaves, or free persons of color who are now or have been residents of the Territory, will be permitted to reside in the

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Territory, unless formally incorporated with some tribe, according to the usages of the band. (Response of loyal Choctaw delegation, pp. 320-321.)

The Seneca delegation had no response to make, as they did not have any negroes in their nation, and the Shawnee delegates recommended a change in article 7 by striking out the word "white," so as to read:

7. No person, except officers, agents, and employés of the government, or the employés of parties authorized by the government, shall be permitted to reside on any reservation or portion of land set apart as provided by article 5, unless such persons shall be formally adopted into the tribe owning such reservation or land set apart. (Page 322.)

The Osages, when appealed to to respond, inquired:

You told them also that no white men, except officers, should be allowed in the Indian country. Now you have prohibited the white man, and why do you say that the negro may come in? (Page 324.)

We fully and freely indorse all the propositions contained in your address, excepting that we respectfully submit that article 3 should be so changed as to admit only colored persons lately held in bondage by the Seminole people, and free persons of color residing in the nation previous to the rebellion, to a residence among us and adoption in the Seminole tribes, upon some plan to be agreed upon by us and approved by the government. *We are willing to provide for the colored people of our own nation, but do not desire our lands to become colonization grounds for the negroes of other States and Territories.* (Response of Seminole delegation, page 325.)

The Creek delegates made the following responses:

There are some matters still behind which we wish to bring in about the seventh article (as to who shall reside in the Indian Territory), which we did not put in our paper for want of time. We as Creeks don't understand these fully. There are some things still behind which we wish to bring forward. We understand you will also allow us an opportunity to speak to-morrow. (Page 329.)

Again:

We have accepted the abolition of slavery as a fact accomplished, and are willing to give such fact legal significance by appropriate acts of council. But we respectfully submit that it would neither be for the benefit of the emancipated negro nor the the Indian to "incorporate" the former into the several tribes on an equal footing with the original members.

That the emancipated negro must be "suitably provided for" is a natural sequence of his emancipation; but so serious and delicate a question should not be so hastily considered and acted upon, and we therefore ask further time before deciding upon it, pledging ourselves to acquiesce in good faith in any plan which may be considered reasonable and just. \* \* \*

We beg to assure the government that our objections to the third and sixth propositions are made in no captious spirit, but with a view solely to the good of our common people; and we announce ourselves willing to yield such objections if, after mature deliberations, no better plan can be suggested by us which will be satisfactory to the government. (Page 339.)

And later:

We are willing to provide for the ceding of a portion of lands at a fair price. We are willing to provide for the abolishing of slavery and *settlement of the blacks who were among us at the breaking out of the rebellion as slaves or otherwise, as citizens entitled to all the rights and privileges that we are.* (Page 341.)

The only unoccupied lands in the Indian Territory open inferentially to the settlement of freedmen are the lands ceded by the Seminoles and the Creeks, and even in the Creek treaty provision is made only for the settlement of Indians, it being silent respecting the settlement of freedmen thereon. (14 Stat., p. 786.)

The Cherokee treaty of 1866 provided only for freed persons who were formerly slaves to Cherokees, and all free negroes, not having been slaves, who resided in the Cherokee Nation prior to June 1, 1861. (14 Stat., p. 800.)

The Choctaws and Chickasaws provide only for persons of African descent who were resident in the nations at the date of the treaty of Fort

Smith, and their descendants, heretofore held in slavery among said nations. (14 Stat., p. 769.)

In the case of the United States *vs.* Payne, Judge J. C. Parker decided as follows:

Therefore, in making a treaty with the Seminoles, it (the government) sought to provide a home for such freedmen as had been held in slavery by the Indians in the Indian Territory, should that necessity occur to secure them in their rights. In the face of the surrounding condition of things at the time this treaty was made, we must conclude the government meant these freedmen who had been slaves in the Indian Territory, and none others, and these could only be settled on this land by the authority of and with the permission of the government. Colored persons who were never held as slaves in the Indian country, but who may have been slaves elsewhere, are like other citizens of the United States, and have no more rights in the Indian country than other citizens of the United States. (2 McCrary Circuit Court Reports, p. 289.)

In view of the treaty stipulations herein cited, the decision of Judge Parker, and the views held by the Indians set forth in the council held by Commissioner Cooley *et al.* (a full report of which may be found on pages 296 to 312 of Annual Report of the Commissioner of Indian Affairs for 1865, with report of the proceedings of the said council, on pages 312 to 353), as well as the views always held by this office respecting the settlement of freedmen in the Indian Territory, I am convinced that the "freedmen" referred to in these treaties are not the "freedmen of the United States" whom the bill in question proposes to allow to occupy certain lands in Indian Territory, but only those freedmen and their descendants who were the former slaves of Indians residing in the Indian Territory, and all free negroes, not having been slaves, who resided in the Territory prior to June 1, 1861.

The most liberal construction that could be placed on these treaty stipulations would not, in my opinion, justify such a scheme or procedure as the colonization of the colored people from Kansas and other States or the Territories on the Creek and Seminole ceded lands or any other lands in the Indian Territory, and any action inaugurated to carry such a scheme into effect should receive the prompt and unqualified condemnation of this department.

The letter of Hon. Mr. Haskell, with the rough draft of bill submitted, is respectfully returned with a copy of this report.

Very respectfully, your obedient servant,

H. PRICE,  
*Commissioner.*

The Hon. SECRETARY OF THE INTERIOR.

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