

A M E M O R I A L

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED.

The people of the Choctaw Nation have heard, with great surprise and regret, of the decision of the Supreme Court of the United States upon the status of the lands of the Wichita reservation, and now feel obliged to accept the suggestion of the Supreme Court, and appeal to Congress to repair the wrong done them by the Commissioners of the United States who wrote the treaty of 1866.

The Choctaw Nation have too much respect for that great tribunal, to question the correctness of the decision above referred to, but they most respectfully submit that it operates to their great loss and injury.

Your memorialists, the Choctaw people, through their General Council, respectfully represent:

1. That, prior to 1820, they held, and from time immemorial had held, a vast tract of land east of the Mississippi River; that in 1820 they ceded about six million acres thereof to the United States, in exchange for lands west of that river, and described in the treaty of 1820 (7 Stats., 210); that in 1830 they ceded to the United States the remainder of their lands east of the Mississippi River, comprising about ten million acres, and the United States agreed to convey to them, in fee, the lands theretofore ceded by the treaty of 1820, to the one hundredth meridian, and accordingly, in 1842, the conveyance was made, whereby the Choctaws became the owners, in fee simple, of the said tract of land; and the United States guaranteed to them that it should be only subject to Choctaw government, free from the government of any State, etc.

2. In 1855, the United States desired to procure the settlement

of certain other Indians on some of the lands so owned by the Choctaws, in fee, as above-stated, and, by a treaty of that year, the Choctaws and Chickasaws (the Chickasaws having acquired an interest from the Choctaws in 1837) leased the body of their lands lying between the ninety-eighth and one hundredth degrees, for that purpose, and no other - since, known as the "leased district." It will not be disputed that, up to 1855, the Choctaw and Chickasaw Nations had full title to all of the lands in said leased district. In that year, they were leased to the United States, for the permanent settlement of certain Indians thereon; at the same time, it was provided that "the territory so leased shall remain open to settlement by Choctaws and Chickasaws as heretofore" (11 Stat. 611, Art. 9., Treaty of 1855), and that, while those other tribes or bands of Indians to be located thereon were not to be under Choctaw control, the treaty provided that the President, in prescribing rules and regulations for their control, should make them not inconsistent with the rights and interests of the Choctaws and Chickasaws. This treaty shows that the Choctaws and Chickasaws made the fullest arrangement, and reservation of their right, to occupy this country as before; that it was mutually understood, between the Choctaws and Chickasaws and the United States, that this country should be under the jurisdiction of the Choctaw government; and that the United States expected the Choctaws and Chickasaws to occupy it. The record in the case just decided shows that the Choctaw Nation reorganized its government on this basis, and denominated the country of the "leased district" as Hotubber District. This district was represented in the government of the Choctaw Nation as such until 1866, and, at the time of the treaty of 1866, was not occupied by anybody, except Choctaws and Chickasaws (the few Wichita and other Indians who were there having gone north, to be fed).

3. Such was the condition of affairs in September, 1865, when representatives of the United States and the tribes of Indians of the

southwest, including the Choctaws and Chickasaws, met in council or convention, at Fort Smith, Arkansas, to renew the relations which existed at the breaking out of the rebellion. The Commissioners of the United States came with the olive branch in their hands, and stated that there was no desire to take advantage of, or enforce, any penalties for the unwise actions of those Nations, in making treaties with the Rebel government; and expressed a desire that still other Indians might be admitted into this "leased district," and, with that in view, entered into negotiations with the Choctaws and Chickasaws (the details of which need not here be stated), resulting later in the treaty of 1866.

4. This treaty was prepared by Commissioners, representing the United States. In it was a provision by which, in terms, the Choctaws and Chickasaws ceded to the United States, for an expressed consideration, of three hundred thousand dollars, the entire "leased district," embracing seven million seven hundred and thirteen thousand two hundred and thirty-nine acres of lands; but this sum of three hundred thousand dollars was not to inure to the benefit of the Choctaws, but to the freedmen, so that practically the Choctaws and Chickasaws were to get nothing for themselves for the seven millions of acres of land, and that body of land, which was known as the "leased district," which was held by lease for a special purpose, and no other, was changed into an absolute ownership by the United States, for a nominal consideration, of three hundred thousand dollars, which was to go to the freedmen, and not to the Choctaws and Chickasaws. The lease was always treated by the United States and the Choctaws and Chickasaws as a trust, for the special purpose of settling Indians thereon, and that cession of 1866 was always regarded by the administration officers of the United States as a cession in trust, and was never regarded otherwise, until 1892, after a lapse of nearly thirty years, when, for the first time, there was any contention to the contrary by the United States.

The Congress of the United States so regarded it, and dealt with it. The Choctaws and Chickasaws always contended that it was a trust. Therefore, when, in 1889, the United States determined that these lands, that had been conveyed to the Choctaws and Chickasaws, in fee, should no longer be subject to Indian government, but should become part of the public domain, and be subject to settlement by whites, etc., the Choctaws made the claim that, when this change of policy occurred, the trust ended, and they became entitled to those lands, free and discharged from said trust. The controversy was, by Congress, referred to the Court of claims, which tribunal held that the trust existed. From that decision an appeal was taken to the Supreme Court of the United States, which Court has recently decided that, by the terms of the treaty of 1866, it was a cession absolute, for a named consideration, of three hundred thousand dollars, and, therefore, the Court was without power to grant to the Choctaws and Chickasaws the relief they claimed, and that the power to right any wrong done them by that treaty rested, not in the Courts, but in Congress.

Therefore, we come with this our petition, showing that we purchased those lands from the United States, and paid for them an enormously valuable consideration, and received a conveyance, in fee; that said tract, containing more than seven millions of acres, by the form in which the treaty of 1866 was drafted, was ceded to the United States, by the Choctaws and Chickasaws, for an apparent consideration, of three hundred thousand dollars, -which was not for their benefit, (but which, if it was for their benefit, was most grossly and unconscionably inadequate); and we pray that the Congress of the United States will not take advantage of the language in which the treaty was drafted, but, in the exercise of sovereign power, according to conscience, grant us justice.

The said third article of the treaty of 1866, when viewed in the light of the Supreme Court decision, makes title to the

United States of seven million seven hundred and thirteen thousand two hundred and thirty-nine acres of land, which is the acreage of the "leased district," and takes tribal citizenship and forty acres of land each for some nine or ten thousand freedmen, a fair computation of the value of the latter item being not less than one million dollars - and even that is a low estimate. Taking the third article of the treaty of 1866, and construing it as a whole, the startling proposition is revealed to us, that the Choctaws and Chickasaws have yielded up seven million seven hundred and thirteen thousand two hundred and thirty-nine acres of land in the "leased district," and one million dollars" worth of property in their home country, for the benefit of their freedmen, the consideration being the insignificant sum of three hundred thousand dollars. We refuse to believe that the United States intends to stand on such a transaction

We have confined this memorial to a simple statement of fact, unencumbered with details, but will esteem it a favor if we may be permitted, at some convenient time, to present the matters herein referred to, as fully as justice may require.

Purpass Bey.
W. G. Ward

Approved Jan 24th 1801
G. W. Dubois
Principal Chief
C. N.

Citizens of the United States have claims ag
the Choctaw Nation and to make the Choctaw Nat
to do equity it ~~should~~ ^{should} receive equity.

Proposed by
W. G. Ward

Read and Interpreted
passed the senate
and referred to the
House this the 7th
of January, 1901

G. Green McCreedy
President of the Senate

Read and Interpreted
passed the House
and referred to the Principal
clerk. This 7th day of
January 1901.

L. O. Hunter,
Speaker of
the House.

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Solomon J. Homer,
National Secretary

JAN 1901

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Choctaw Nation

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