

**This Agreement and Contract,** Made and entered into this the..... day of February, 1890, by and between the Creek soldiers ~~who enlisted in the Federal Army,~~ Loyal Indian Refugees and Freedmen of the..... Town, of the Creek or Muscogee Nation, whose names are hereunto attached, parties of the first part, and Roley McIntosh, J. M. Perryman, Hotulke Fixico and G. W. Grayson, all native citizens of the Creek or Muscogee Nation, parties of the second part, *Witnesseth*, that,

*Whereas*, by Article 18 of the treaty proclaimed Aug. 28, 1856, the United States agreed to "protect the Creeks (Muscogees) from domestic strife, from hostile invasion or aggression by other Indians and white persons," and "to pay full indemnity for all injuries resulting from such invasion or aggression;" and,

*Whereas*, the United States, by its duly authorized agents, did, under the provisions of the 4th Art. of the treaty proclaimed Aug. 11, 1866, examine the claims of many of the Loyal Creek (Muscogee) soldiers who enlisted in the Federal Army, and Loyal Creek Refugees and Freedmen, and ascertained and reported certain amounts to be due from the United States to those filing claims, which claims have never been paid; and,

*Whereas*, sometime in January, 1890, about thirty citizens of the Creek (Muscogee) Nation, a large majority of whom were colored and hence not representative of the real Loyal Indian element of the nation, met at Okmulkee, and claiming authority under an act of the National Council of Oct. 31, 1889, selected D. M. Hodge, Ispahechar and Cowe Harjo, as their legal representatives and attorneys; and,

*Whereas*, printed blank contracts are being circulated among the people for signature, granting power and authority to the said D. M. Hodge, Ispahechar and Cowe Harjo, as their legal representatives and attorneys, to prepare, present and prosecute their claims against the United States, arising and growing out of the provisions of said treaties, for the value of property lost or destroyed during the war of the rebellion, and known as the Loyal Creek claim; and,

*Whereas*, grave charges have been duly filed against certain of our citizens, among whom are numbered the said D. M. Hodge, and Ispahechar, alleging that they, on a previous occasion, while acting in Washington as the trusted delegates of the nation, fraudulently misused a large amount of the public funds of this nation accruing from the sale of the Oklahoma lands, which matter, it is said, has already become a subject of litigation in the U. S. District Court for the Western District of Arkansas at Fort Smith; and,

*Whereas*, under the circumstances, it is neither prudent nor advisable to entrust pecuniary or other interests to the care or management of such hands; and,

*Whereas*, it is deemed necessary and proper that the claims for losses should be entrusted to the management of persons having the confidence of individual claimants, therefore,

THIS AGREEMENT AND CONTRACT is made and entered into by and between the aforesaid parties. And said parties of the first part, being members of the said ..... Town of the Creek (Muscogee) Nation, do hereby retain and employ Roley McIntosh, J. M. Perryman, Hotulke Fixico and G. W. Grayson to be their representatives, attorneys and solicitors, to appear for and on behalf of the members of said Town, with full power to contract with an attorney or attorneys to prosecute before the Congress of the United States, or any Committee thereof, or any Board of Arbitrators or Commissioners, duly appointed departments of the government of the United States or Courts thereof, and to do and perform every proper thing necessary to be done in order to secure to the Creek Soldiers who enlisted in the Federal Army, Loyal Creek Indian Refugees and Freedmen of the said ..... Town, their just awards due to them, and known as the Loyal Creek Claim, arising under Article 18 of the treaty of Aug. 28, 1856, and Art. 4 of the treaty of Aug. 11, 1866, and under any all laws and resolutions of Congress relating to articles of treaties aforesaid and the awards, claims and demands thereby guaranteed.

In consideration of the services to be rendered by the parties of the second part, in expending the time, labor and money necessary and requisite in the preparation, presentation and prosecution of the said awards, claims and demands to a final, successful termination, the said parties of the first part, hereby promise and agree, and bind themselves, their heirs, successors and survivors, to pay to, and to allow to be paid to the said parties of the second part, twenty-five (25) per centum of all the moneys or funds recovered, regained and received on this award and demand, under said Articles 18 and 4 of the treaties of 1856 and 1866 respectively, when said moneys or funds shall be obtainable and made available for payment to the said Creek Soldiers who enlisted in the Federal Army, Loyal Creek Indian Refugees and Freedmen, in the Treasury of the United States. The remaining portion and amount received shall be paid to the several claimants of Creek Soldiers who enlisted in the Federal army, Loyal Creek Refugees and Freedmen, and their heirs, in such manner and form as shall be directed by the Secretary of the Interior. The parties of the second part are hereby empowered with full authority to select and contract with any attorney or attorneys under them, to prepare, present and prosecute, in a lawful way and procedure, the awards, claims and demands mentioned aforesaid, before the Congress of the United States, any Committee thereof, or any Board of Arbitrators or Commissioners, duly appointed, the Departments or the Courts, and to do and perform everything necessary to be done, and to use all due means, course and process for the full, effectual and complete execution hereof, and to secure to the Creek Soldiers, who enlisted in the Federal Army, Loyal Creek Indian Refugees, and Freedmen, their just awards and claims under said treaty provisions.

THIS CONTRACT AND AGREEMENT shall be in lieu of, and take the place of, any and all agreements or contracts heretofore made in this matter, by and between the parties of the first part and any and all persons whomsoever, it being the purpose of said parties of the first part, to revoke, and they hereby declare as revoked and annulled, all prior contracts aforesaid.

The basis of these claims and awards is Article 4 of August 11, 1866, and Article 18 of the treaty proclaimed August 28, 1856.

This Contract shall be and remain in full force for the period of ..... year..... from ..... of February, 1890.

IN WITNESS WHEREOF, the said parties have hereunto subscribed each their names, the day and date first above written, in presence of the subscribing witnesses.

I CERTIFY, that on this the .....day of February A. D. 1890, the foregoing Contract was duly executed in my presence, after the claimants were made fully acquainted with its contents and purposes.

*Seal.*

.....  
Judge of the.....District.

Veto of act relative to printed laws  
Isparhechar Rebellion  
Veto of act relative to time of general elections  
Preamble &c prepared by G.W. Grayson to be  
submitted to council but which was <sup>not</sup>  
Copy of telegram to J.M. Perryman from Delegates  
Secretary's instructions to S.S. Benedict  
Letter to G.W. Grayson stating that Danl. Childers  
- or Gooze, is cranky -  
Isparhechar Rebellion  
U.S. ag. Tufts as to who to recognize as  
chief J.M. Perryman or Isparhechar  
Letter of Delegates - Isparhechar troubles

2.

Contents listed under  
item IV. of inventory

Grayson Papers

File 7

in deposit

IV

Washington, D. C.,

January 8th, 1883.

Hon. H. Price,

Commissioner Indian Affairs,

Sir:

It becomes our duty as representatives of the Creek nation, to ask your attention to some facts bearing on the recent unfortunate disturbance of the peace of the people of that country. In this connection we assure you the authorities of the Creek nation are fully alive to the fact that their best interests rest in the cultivation and promotion of peace and harmony among all classes of her citizens; and in order as they thought more effectually to accomplish these great ends, they many years ago established a constitutional form of government fashioned much after your own State governments, and which has ever since been recognized by the Interior and other departments of the government of the United States as the legitimate authority in that nation. It is our pride and pleasure, also, to assure you that under this government the interests of education, of religion, and of material industry, have advanced as they never have in any previous history of our people. But, as in all other governments, we have our malcontents in the form of a small faction, who, while they would propose no reasonable compromise, had not sufficient intelligence to proceed in a legitimate manner to correct their imaginary wrongs. They defied and insulted our laws time and again, but forbearance and love held back the hand of chastisement for many years, all, seemingly, to no good purpose, until their obstinacy has this the second time culminated in the loss of life, as you are aware. The Creek government has not retaliated, however, as she is abundantly able to do, and as the provocation seems to merit, but, on the contrary, has consented to abide the decisions of a peace conference to meet some time in the near future, and at which we hope an amicable adjustment. What the result of this conference will be, no one can with

certainty predict; while in the mean time an unfortunate feature in our troubles lies in the fact that the malcontents in our country receive moral aid and support from Creeks who are not citizens of the Creek nation, but Cherokee citizens living in the Cherokee nation, together with near thirty (30) Seminoles who are also citizens of another distinct government. We are authorized to assure you that the Creek nation is competent to preserve peace and order within her limits if unembarrassed by such outside influences; but with these menacing our nation from two different quarters, the Creek nation is apprehensive of other troubles and commotions pending the peace negotiations now contemplated, which may work to thwart a satisfactory settlement. In view of these apprehensions, then, and in view of the guarantees of the United States to "protect the Creeks and Seminoles from domestic strife, from hostile invasion and from aggression by other Indians and white persons, not subject to their jurisdiction and laws", (See Revised Indian Treaties p. 112 art. 18), we are instructed earnestly to call upon you to afford to the Creek nation at as early a day as possible that protection thus guaranteed, the same to last at least until a thoroughly pacific solution of our differences shall have been reached. An early reply will greatly favor

Your obedient servants,

*Lynn C. Perryman*  
*G. W. Grayson*

WASHINGTON, D. C., *February 9, 1893.*

Knowing that our people are profoundly interested in the discussions now going on in Congress regarding our country and our interests, we have deemed it our duty to set forth as briefly and concisely as possible the policy now taking shape and which is announced to be the policy to be pursued in dealing with our people in the future. It is now held by those members of Congress who have had more or less to do with Indian matters that all the Indians within the confines of the United States must be made citizens of the United States, and that they must change their mode of land tenure from that of tribal ownership to that of individual ownership. That the ultimate consummation of this policy, as now definitely announced, has been the unwavering aim of Congress for a period of twenty-five years is apparent upon a careful review of attempted legislation covering this time. This change would, no doubt, have been accomplished some years ago, but other and more important questions engaged the attention of Congress, and the Indian question was studied only superficially and periodically by a few members of Congress; but now conditions and circumstances have changed.

The vast areas of unoccupied public lands in the west and southwest which a few years ago still remained in their pristine wildness have succumbed to the energy and industry of home-seekers, and millions of acres which a few years ago were the undisputed property of scores of Indian tribes have been bought and transferred to citizens of the United States. This condition of affairs is fully appreciated by members of Congress.

The Senate Committee on Indian Affairs, in submitting their report on the Cherokee Strip agreement, used the following words:

“The anomalous condition of five separate, independent Indian governments within the Government of the United States must soon, in the nature of things, cease. \* \* \* When these governments were established and guaranteed, to the extent that they were guaranteed by the United States, they were in a remote section of the country, far removed from other settlements, with modern means of travel and communication unknown, and without the slightest anticipation of the condition of things which now exists. To-day they are surrounded by settled States and Territories; white citizens, by the permission of the Indians themselves, have been admitted into their territory, until now the white people domiciled within the borders of the Five Civilized Tribes outnumber the members of the tribes, and are rapidly increasing.

"Our whole policy of dealing with the Indians has changed. It is now the purpose of the Government to make them citizens as rapidly as possible, and to wipe out the line of political distinction between an Indian citizen and other citizens of the Republic. And it must be evident to all who observe the changed condition of our country, and appreciate the change in our policy with regard to the Indians, that the day is rapidly approaching when the Indians now constituting these independent governments must be absorbed and become a part of the United States."

The above views of the committee is endorsed by Senators in their speeches on the floor of the Senate. On the 22d ult., Senator Perkins, of Kansas, said in the Senate: "The growth and development of our country has been such that these reservations, constituting the Indian Territory, are now surrounded by growing and by intelligent communities. Railroads are traversing the reservations, and the demands of civilization and commerce are such that, as has been suggested on the floor of this chamber, the civilized tribes must comprehend and realize that it is only a question of a little time when they must either consent to an organized Territorial or State government or that it will be forced upon them by the Congress of the United States. \* \* \*

"So I desire in a few words to emphasize what has been so well said by the Senator from Missouri, that we must either by negotiations induce these civilized tribes to take their lands in severalty, and to accept the duties and responsibilities of citizenship, and to cede to the Government of the United States their excess, or we must force those conditions upon them." The present policy of the United States towards the Indians is clearly set forth in the above quotations. The advocates of that policy do not deny any rights guaranteed to us by treaty. They say that the policy of the United States in the removal of the Indians west of the Mississippi, where their tribal governments could be perpetuated and where they could work out their own civilization under their own laws, customs, and usages, was one of wisdom and foresight, and that, under its benign influences, the Indians have accomplished all that was hoped for or intended, and that they are now transformed into industrial, civilized, and self-maintaining communities; that they have evolved systems of governments and laws similar to those of the States of the Union; that in fact they have ceased to be an uncivilized people requiring the paternal care of the United States Government; and, on the contrary, both their interests and common justice demand that they be clothed with citizenship and be accorded all the rights, privileges, and immunities belonging to citizens of the United States.

The difficulties of our situation can readily be seen from the above-recited facts. They do not deny any of our rights under treaty, but say they will go to the people themselves and confer with them and urge upon them the necessity of

a change in their present condition, and upon their refusal will force a change upon them. In pursuance of this scheme the Senate has placed upon the bill ratifying the Cherokee agreement a provision authorizing the appointment of a commission to go to the Indian nations and negotiate with them with a view of changing their political status and land tenure—making them citizens of the United States and allotting their lands.

The intruder question, arising from a provision in the Cherokee agreement requiring the forcible expulsion of intruders from the Cherokee nation, has aroused great interest in Congress. It is admitted that legally the intruders have no rights in the nation, and should be expelled and treated as trespassers ; but that a certain class of them, namely, those holding certificates under authority of the Interior Department, ought to be entitled to an equitable allowance for improvements made by them, and that the amount should be paid by the Cherokee nation.

After carefully considering the chances for favorable legislation on the Loyal Creek claim, and upon consultation with the members of the Committee on Indian Affairs and others in sympathy with our cause, it was determined to introduce and endeavor to have passed a bill referring the said claim to the Court of Claims, to be tried as a cause in equity and in accordance with rules governing equity proceedings. Bills for this purpose have been introduced, but, as yet, no action has been secured. The condition of affairs as regards our people and their prospective future is not encouraging to contemplate, especially in view of the fact that our people are not yet prepared for so sudden and radical changes in their political and social relations ; yet we deem it our duty to state the situation as it is.

Very respectfully,

P. PORTER,  
A. P. McKELLOP,  
*Creek Delegates.*

Washington D. C.

March 22<sup>nd</sup> 1884.

Hon. A. Price

Commissioner

Sir:

The undersigned delegates respectfully ask your attention to the following facts and request to wit:— The Government in the capacity of guardian of the Muscogee reserves of 1832 received at one time the sum of certain balances due on sales of Creek reservations in Alabama amounting to \$2600.<sup>00</sup> which was deposited in a bank in the city of Columbus in the State of Georgia by one Alexander Robison where it remained until the bank suspended payment and was thus lost to the Government. The attention of Commissioner

Many penny was called to it and in 1855 or 6 The Government made an appropriation to meet it and the money was sent to Indian agent Garrett with the promise that a list of the names of those to whom the money was due would follow. Only names sufficient to take up \$2500<sup>00</sup>/<sub>100</sub> was furnished however, leaving in the hands of Agent Garrett a balance of \$100<sup>00</sup>/<sub>100</sub>. In the Spring of 1857 the Government received other funds realized in the same manner as the former amount aggregating \$628.77 which was also forwarded to Agent Garrett with the promise as before of a list of the rightful beneficiaries but which was never furnished while Mr. Garrett in the meantime died without disbursing the money. The attention of your Department has several times

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been called to these balances and payment asked but as often declined on the plea that the names of the proper beneficiaries could not be found. Reference to Agent Garrett's reports for the 2<sup>nd</sup> or 3<sup>rd</sup> quarter of 1861 will show the above amounts aggregating \$728.77 to have been in his hands at that time. The Muscogees should not be forced to lose so considerable an amount of money because of the failure of the Government to properly preserve her files and records - as must be the cause in this case. And now as it is probable that the Government would still be unable to find the names of the beneficiaries we ask that such action be had by your office as may secure a reappropriation of the funds in order that they may be applied

to the purposes of education among the  
Muscogee people.

Very Respectfully  
J. M. Simpson }  
D. M. Hodge } Delegates  
Creek

Dec. 26<sup>th</sup> 1883.

Telegram

To J. D. Bondick

Indian Inspector

Swilford, Kansas

Go to Pressaged

Indian Territory, there join Agents Tufte and Special Agent Townsend and with them proceed at once to the Great Nation and investigate carefully all the facts and circumstances connected with the election of principal chief and report your decision and recommendation to this office. You will give the Agents of both parties to understand distinctly that upon your report a decision will be made and that decision will be final and will be enforced.

A. M. Keller

Secretary.

O. K. Mulker & Co.,  
Dec. 8. 1883

Whereas the legality of the recent general elections held on the 3<sup>rd</sup> day of September 1883, has been seriously questioned by a respectable minority of the National Council which adjourned on the 4<sup>th</sup> inst., which doubts were shared by the then acting Principal Chief, and —

Whereas the said Council terminating on the 4<sup>th</sup> inst. has bequeathed to its successor the duty and responsibility of providing a satisfactory solution of the problem that arose in its midst, and —

Whereas the continued unsettled state of this question has caused serious trouble to the minds of all classes of Muscogee citizens, and is calculated seriously to demoralize the business interests of our country and ultimately prevent a proper administration of law in the Muscogee nation, and —

Whereas the point on which the question of legality turns is one of an entirely technical nature by which no definite or specific rights of any Muscogee citizen is subverted, and;

Whereas the recent elections were participated in by the entire nation thus practically legalizing that which might with justice be regarded as <sup>technically</sup> illegal, and;

Whereas the moral right of any Council to reverse the action of the people of the whole nation, whose creatures and servants both the Council and laws are, is a question which under our republican institutions, we are not prepared to answer in the affirmative, and;

Whereas in the opinion of the new Council which met and organized as provided by law on the 5<sup>th</sup> of December 1883 the recent elections are technically erroneous, nevertheless

in furtherance of their earnest desire to exercise every effort in their reach to restore peace, harmony and good will among the citizens of this nation, Therefore in order to secure these important ends—

Be it enacted, by the National Council of the Muscogee Nation, that the late elections held under the order of the Principal Chief on the 3<sup>rd</sup> day of September 1883, for Principal and Second Chief and members of the National Council are hereby declared legal and valid; and ~~any~~ officer elected thereunder is hereby authorized and directed to a faithful exercise of the functions of his office to the end that a proper administration of law may prevail throughout the Muscogee Nation.

Prepared to be offered in the House of W. by G. W. Grayson during the election controversy in Dec 1883 — Circumstances changed and the paper was not offered

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, May 13, 1884

Refer to reply to the following  
L 3836  
" 8554/84

G. W. Greyson and others,  
Creek Delegates,  
Present.

Gentlemen:

Referring to your communication of the 22<sup>nd</sup> of March, relative to the sum of seven hundred twenty eight and 77/100 dollars (\$728.77) - Creek Funds, unaccounted for by Chas. H. Garrett, Creek Indian Agent, I have to advise you, that by letter of the 2<sup>nd</sup> Auditor, dated the 1<sup>st</sup> inst, he informs me that the above sum

2. Greyson, & others

has never been paid to the Creeks, but was used by the United States in the settlement of the accounts of Ex-Agent Garrett.

In accordance with the suggestions of the 2<sup>nd</sup> Auditor, the item on the 12<sup>th</sup> instant was reported to the Hon. Secretary of the Interior, with the recommendation that the matter be laid before Congress in order that the amount be incorporated in the Sundry Civil Bill.

- Very -

3. Greyson + others.

Very respectfully,  
E. L. Stevens  
Acty. Commissioner.

"Let."

Washington D.C.

July 8. 1884.

Price's written opinion favors you, but question is before Solicitor now, who will hear arguments Monday. Prospects indicate more delay. Opposition appears hopeful. Brownell is confident of success. In view of long delay and these facts we submit the question of sending more help for your decision and action.

Preypen & Hodge

EXECUTIVE DEPARTMENT,  
MUSKOGEE NATION.

Okmulgee, I. T. Nov 24<sup>th</sup> 1883

To the honorable  
~~Members of the House of Kings~~  
~~National Council~~

Gentlemen

The Bill passed by your body and presented to me for approval on the 22<sup>nd</sup> inst, providing or enacting "that the Printed Laws of 1880 and all subsequent acts of the National Council have been and are the recognized laws of the Muskogee Nation", is before me, and after careful consideration of the same, must decline to give it my approval, for the reason of its unconstitutionality. The legal effect of the Bill is an attempt to legalized things which have heretofore transpired. The language of the Constitution is that "no laws taking effect upon things that occurred before the enactment of the law shall be passed"; This Bill is clearly in violation

Okmulgee, I. T.

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of this provision of our Constitution, and therefore, requires at my hands a veto of the same. The ~~ostensible~~ purpose of this Bill is to revive the general election law of 1870 and legalize our late election held thereunder. To do so, the act of October the 14<sup>th</sup> 1879 providing our general election shall be held on the first Tuesday, must be wholly disregarded, which act stands unrepealed, and as friends of Constitutional law, we cannot overlook. In a strict compliance with our laws is our greatest security against lawlessness and crime. The returns of three Towns have been thrown out in our late election because they failed to comply with the election law, and it is now ascertained the balance of the Towns have committed a similar mistake. Two wrongs never make one right, and I trust such a charge shall not remain at our door.

S. Callahan P.S.

Very resptly  
your obt servt  
Saml Checote P.C

Sustained (24 to 19)

James Larney  
Percy Posten H. Kieps

Sam Guyton  
L. N.

Concurred in (33 to 46)

Henry Siger  
J. F. Warriner

A. J. McClellan  
L. N.

Veto of receipt of net  
relative to the time of  
general elections