LIST OF OFFICERS FOR THE YEAR 1897.

PRESIDENT,
PHILIP C. GARRETT.

VICE-PRESIDENT,
RT. REV. O. W. WHITAKER, D.D.

TREASURER,
E. Y. HARTSHORNE.

CORRESPONDING SECRETARY,
HERBERT WELSH.

RECORDING SECRETARY,
ALBERT B. WEIMER.

EXECUTIVE COMMITTEE,

MRS. BRINTON COXE,
CHARLES W. FREEDLEY,
PHILIP C. GARRETT,
REV. J. ANDREWS HARRIS, D.D.,
E. Y. HARTSHORNE,
DR. HENRY HARTSHORNE,
CHARLES F. JENKINS,
FRANCIS FISHER KANE,
GEORGE GLUYAS MERCER,
N. DUBOIS MILLER,
MRS. JOHN MARKOE,
CHARLES E. PANCOAST,
HENRY S. PANCOAST,
J. RODMAN PAUL,
REV. H. L. WAYLAND, D.D.,
ALBERT B. WEIMER,
HERBERT WELSH,
MISS S. P. WHARTON,
RT. REV. O. W. WHITAKER, D.D.,
E. M. WISTAR.

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THE DAWES COMMISSION

AND

THE FIVE CIVILIZED TRIBES

OF

INDIAN TERRITORY.

A REPORT BY

CHARLES F. MESERVE,
PRESIDENT OF SHAW UNIVERSITY, RALEIGH, N. C.

PHILADELPHIA:
OFFICE OF THE INDIAN RIGHTS ASSOCIATION,
1305 ARCH STREET.
1896.

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THE DAWES COMMISSION AND THE FIVE CIVILIZED TRIBES.

Most persons interested in Indian affairs are aware that Congress is contemplating certain changes in the government and land tenure of Indian Territory. The importance of these proposed changes and the practical difficulty surrounding the whole subject demand for them immediate and earnest attention. Two questions are at once presented:

First. Why is Congress called upon, or even justified in interfering with the internal affairs of civilized and peaceful tribes having an established government of their own?

Second. If such interference is justified and required, how can the proposed change be made with justice to all, and preservation of property rights?

Any attempt to answer these questions presupposes a thorough knowledge of the existing political and social conditions of the Territory and of their origin. With the object of acquiring such knowledge at first hand, the Indian Rights Association secured the services of Mr. Charles F. Meserve, as their agent, to make a special investigation. The value of such an investigation depends largely on the impartiality, the thoroughness, and the training of the agent, and the Association felt that in Mr. Meserve they had secured an agent possessing the necessary qualifications in a high degree. Mr. Meserve visited Indian Territory in the summer of 1896, and has made a full report, which, it will be seen, is a corroboration from an independent and entirely disinterested source, of the conclusions arrived at and already published by the

Dawes Commission. Mr. Meserve's report is here printed by the Indian Rights Association, for the information of the public.

REPORT OF MR. CHARLES F. MESERVE.

Start and Plan of Investigation.

On June 26th of the present year, I was asked by the Corresponding Secretary of the Indian Rights Association to investigate, by a journey to the field, the legislation proposed by the Dawes Commission for the Five Civilized Tribes of the Indian Territory. After further correspondence and a careful consideration of all the points involved in such an important investigation, I consented to undertake the work. I understood full well from previous experience and an acquaintance with the Indian Territory, that an impartial investigation could not be made from a Pullman car window or in the office or dining-room of a comfortable hotel on one of the several great railway systems that traverse the Territory. I was also aware that I would hear a very different story in a cozy, well-furnished parlor of some wealthy hay, coal, timber, or cattle Indian monopolist or high Indian official, from the one that would be told me by the humble Indian, who shuns the town and lives at a distance from the railway in the flint hills or among the timber in the river bottoms, or in an humble cabin on "the next divide." I determined also that this should not be a "tenderfoot" inquiry, but rather an out-of-doors, shirt-sleeve investigation in the interest of the common, every-day Indian.

I entered upon the work with some misgivings, for I had learned, after several years' experience in the U. S. Indian Service, that no one, however faithful and honest, could escape, not honest and fair criticism, which should always be welcomed as a help to the discovery of truth, but personal abuse and sometimes of the meanest possible kind.

Inquiries as to Work of Dawes Commission.

I first visited Vinita, the headquarters of the Dawes Commission, an important town in the northern part of the Cherokee Nation. I was determined to familiarize myself with the methods and manner of work of the Commission and to do this by personal investigation and observation. The complaints that had come to me emanated largely, if not wholly, from paid attorneys, from Indian and white coal, cattle, or timber monopolists, from Indian officials or other influential people, all of whom are profiting from the present abnormal condition of affairs, and consequently are interested in the continuance of the *status quo*. Notwithstanding the source of the complaints, I was determined to have the facts. I called at the office of the Commission and presented my credentials and stated the nature of my mission. Senator Dawes and General Armstrong were in the States, and the other members of the Commission, Messrs. McKennon of Arkansas, Montgomery of Kentucky, Cabanis of Georgia, were at Muscogee in the Creek Nation. I spent a day of inquiry at Vinita and found there was a more favorable feeling toward the Commission than was the case last year. The Commission has been opposed from the first by all classes who are profiting by the present method of conducting affairs, but the most far-seeing are beginning to understand the situation. They see that the present régime is doomed, that a change, and that for the better and that too in the interest of the Indian rather than the intruder, is coming; and they are going to accept the inevitable, before it is too late. Other Indians see that their rich patrimony is gradually slipping away from their control and feel that the United States should come to their rescue.

I met the three members of the Commission referred to above at Muscogee, and was with them several days and nights. They gave me a copy of the Act of Congress,

granting the Commission additional authority, in accordance with which they are now working. They did everything in their power to assist me. I examined carefully their instructions from Commissioner Browning, Secretary Smith, and President Cleveland, as well as a large amount of correspondence. Everything was placed at my disposal, whether in the line of praise, favorable comment, or unfriendly criticism and complaint.

Powers of the Commission and Scope of Proposed Legislation.

Before entering upon a description of the trip among the five nations, the reader would doubtless prefer me to place before him the legislation creating the Dawes Commission, its report, and the legislation proposed to remedy the present condition of affairs. In a brief report like this, only a synopsis of salient features can be given, though nothing essential will be omitted. Section 16, of the Act creating the Commission, approved March 3, 1893, is as follows:

"The President shall nominate and by and with advice and consent of the Senate shall appoint three Commissioners to enter into negotiations with the Cherokee Nation, the Choctaw Nation, the Chickasaw Nation, the Muscogee (or Creek) Nation, the Seminole Nation, for the purpose of extinguishment of the national or tribal title to any lands within that territory now held by any and all of such nations or tribes, either by cession of the same or some part thereof to the United States, or by the allotment and division of the same in severalty among the Indians of such nations and tribes aforesaid, or each of them, with the United States, with a view to such an adjustment, upon the basis of justice and equity as may, with the consent of such nations or tribes of Indians, so far as may be necessary, be requisite and suitable, to enable the ultimate erection of a State or States of the Union which shall embrace the lands within said Indian Territory."

It will be seen from the above Act that the Commission had only the authority to negotiate. There was no power

to bring about any result by force. Nothing could be done except by the voluntary consent or agreement of the respective nations with a subsequent approval by the United States and all in accordance with treaty stipulations.*

Report of Commission.

From the report of the Commission to the Secretary of the Interior under date of November 18, 1895, and from testimony given by members of the Commission in various hearings before the House Committee on Indian Affairs at Washington during the month of March, 1896, I learn that the five nations declined to negotiate, and, in some instances, treated the Commission with disrespect or declined even to reply to their communications. The report and hearings set forth that the Indian Territory has been overrun with white people, who are there in large numbers, and because not only of the encouragement but invitation of the Indians themselves, that crime is rampant, that the timber, the coal, and the land are monopolized by a few to the detriment of the many, that large towns have been built up by the whites, and that all these operations and enterprises are illegal, having no foundation in right or equity, that the governments of the five nations are corrupt, and that the United States, when it set apart this country for the five nations, never dreamed of such a condition of affairs as the Commission declares exists there.

The Commission has been criticized for not leaving the Territory after the five nations had declined to "negotiate." These critics claim, with much emphasis, that the Commission had only power to *negotiate*. This criticism contains the essence of absurdity. What would be thought of a man, who was sent on a mission and promptly came back and reported failure, without stopping long enough to

[* By a rider to the Indian Appropriation Bill of 1896, the Commission is given further powers to hear and determine questions of citizenship in any of said nations subject to appeal to U. S. Courts.—Ed.]

familiarize himself with the conditions that caused or even contributed to the failure. I have found no one who criticized the *failure* of the Commission to negotiate, but rather the *investigation* and *statement* of the condition of affairs that caused this failure.

The following circular letter, which has been very generally distributed throughout the five nations, will indicate the Commission's present line of work:

PRESENT WORK OF COMMISSION.

VINITA, INDIAN TERRITORY, July 8, 1896.

To Whom it May Concern:

The Congress of the United States has at its recent session enacted that the Commission to the Five Civilized Tribes:

"Is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the right of such applicant to be so admitted and enrolled: *Provided, however*, that such application shall be made to such commissioners within three months after the passage of this act. The said Commission shall decide all such applications within ninety days after the same shall be made. That in determining all such applications said Commission shall respect all laws of the several nations or tribes not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages, and customs of each of said nations or tribes: *And provided further*, That the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof.

"In the performance of such duties said Commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses, and to send for persons and papers, and all depositions and affidavits and other evidence in any form whatsoever heretofore taken where the witnesses giving said testimony are dead or now residing beyond the limits of said territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship, or to protect any of said nations from fraud or wrong, and the rolls so prepared by them shall be hereafter held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes: *Provided*, That if the tribe, or any person, be aggrieved with the decision of the tribal authorities, or the Commission provided for in this act, it or he may appeal from such decision to the United States District Court: *Provided, however*, That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

"That the said Commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records, and add thereto the names of citizens whose right may be conferred under this act, and said rolls shall be and are hereby made rolls of citizenship of said nations or tribes, subject, however, to the determination of the United States Courts, as provided herein.

"The Commission is hereby required to file the lists of members as they finally approve them with the Commissioner of Indian Affairs, to remain there for use as the final judgment of the duly constituted authorities. And said Commission shall also make a roll of freedmen entitled to citizenship in said tribes, and shall include their names in the list of members to be filed with the Commissioner of Indian Affairs."

Any person desiring that the said Commission shall pass upon his claim for citizenship, in any of said tribes, under the provisions of this act, must make application in writing, signed and sworn to, containing a particular statement of the grounds upon which his claim is based, and accompanied by such evidence in the form of affidavits, deposi-

tions, or record evidence, as he may desire to have considered in support of his claim,—all to be forwarded under seal to the Commission at Vinita, Indian Territory, before the 10th day of September, 1896.

The application should state facts sufficient, if true, to show that the applicant is entitled to citizenship. The applicant must, at the same time, furnish the chief or governor of the nation in which citizenship is sought, a copy of such application and evidence, and shall furnish to the Commission evidence of this fact. Such chief or governor must, within thirty days thereafter, furnish the Commission his answer thereto, signed and sworn to by some duly authorized officer of his government, and accompanied by such evidence in the form of affidavits, depositions or record evidence as he may desire the Commission to consider in support of his answer.

All arguments shall be in writing.

HENRY L. DAWES, *Chairman.*
FRANK C. ARMSTRONG,
A. S. MCKENNON,
T. B. CABANIS,
A. B. MONTGOMERY,
Commissioners.

CONDITION OF INDIAN TERRITORY.

The Indian Territory possesses the possibilities of a great State. Her area is 30,000 square miles. Her deposits of coal are enormous and of untold millions of dollars in value. Building stones equal, if not superior, to the best Cotton Wood Falls limestone of Kansas, and Longmeadow freestone of the East is found in abundance. The supply of asphalt is practically unlimited. Although largely a prairie country, the river bottoms are filled with valuable timber, while in some portions are large areas of pine. The entire country is well watered by the Grand, Arkansas, Canadian, Washita, and Red Rivers. In the northeastern portion the streams and brooks are as clear and limpid as in northern New England or Michigan or Colorado. The rainfall is usually so plentiful that a drought, causing a loss

of crops, seldom occurs. The population is estimated at 365,000, of whom 300,000 are whites, generally persons holding permits from the Indian governments to live and transact business. There are among these whites many "intruders" who claim rights and hold lands, but refuse to pay for permits. There are many towns, some having a population of 5,000 and claiming twice as many,—towns provided with electric light, fine hotels, large business blocks, and elegant residences. No one has a legal right to the house or lot he occupies; it is merely a title of occupancy, not of possession, and yet real estate agents thrive as they do in the States. There are six lines of railway, running daily 24 passenger trains and a large number of freight trains. The country is beautiful beyond description, and its resources, the development of which has scarcely begun, are almost beyond comprehension. I traveled in and near the Indian Territory over 1,300 miles by rail, and 300 miles in a carriage in the country at a distance from railways. After having traveled for days over the beautiful prairies, along the river bottoms in the midst of heavy timber, among the coal mining towns, over mile after mile of fenced pastures dotted with thousands of fat cattle, by fields of corn and cotton, almost boundless in extent, I understood full well why the white man was here in such large numbers.

PREVALENCE OF WHITES IN THE TERRITORY.

The Indian in the Indian Territory will soon be a "man without a country" unless the United States steps in to aid him in the preservation of his domain and the maintenance of his property and political rights. The land, grass, timber, coal, etc., are nominally and originally were common property, but if you are looking for some marked instances of "Wealth against Commonwealth," come with me to the Indian Territory, and remember when you enter it that all this vast domain with its tremendous natural

resources belong to the *Indian*, and that this property is all held (theoretically) in common. But whom do you see? *White* men, *white* men everywhere! The scarcest object is an Indian, and this is the *Indian* Territory set apart by solemn treaty obligation for the *Indian*. You see here and there large gangs of men cutting, curing, and pressing hay, and loading it into freight cars for shipment to Kansas City and Chicago. You hear the sound of the woodsman's axe and the crash of the lord of the forest as he falls to the ground, and anon the whir of the saw and the hum of the planer and other machinery preparing the timber for use in the States, where it finds a market. Now and then you pass a whole line of cars heavily laden with coal. Here is a string of coke ovens. Yonder a stone quarry or a vast deposit of asphaltum is giving employment to busy hands. Then you come to square mile after square mile of fenced pasture with innumerable herds. Here in the rich Arkansas bottoms is a field of a hundred acres of cotton, and another of a hundred acres of corn. The cotton will yield a bale to the acre and the corn 50 bushels or more, and all this without a pound of fertilizer. The bottom is three miles wide and the soil black, deep, and rich. This property all belongs to the Indian, but it is the white men who are cutting and shipping his hay, white men who are felling, manufacturing, and shipping his timber, white men who are mining and shipping his coal, white men who are hauling his stone and asphaltum, white men who are harvesting the corn and cotton from his rich acres, white men who are pasturing his beautiful waving prairies, and shipping the fat herds to the stock yards of Kansas City and Chicago. It is the white man who is omnipresent. The common Indian is well-nigh an alien in the land of his fathers.

Illegality of the Arrangements by Indians with Whites.

As all these extensive operations are illegal, it may be interesting to see how this condition of affairs was brought about. The territory occupied by the five civilized tribes was ceded to them by the United States more than sixty years ago. It was to be held in common and for the equal benefit of all the Indians of these tribes. The land, the grass, the timber, the minerals, were for the common use of all. They could not be bought or sold. Among Indians, as among other races, there are men, more able, more scheming, possessing in a greater degree than others foresight, business ability, and selfishness and a greater desire for money. Such an Indian would say: "This tract of land, miles square, is mine." Some white cattle man agrees to fence it and pay the Indian so many hundred dollars a year for a term of years. In some instances an enterprising citizen—a citizen either by birth or marriage—has in this way taken possession of a large tract, fenced it, and stocked it with cattle. The legislative bodies have established rates of royalties to be paid into the National treasuries; a quarter of a cent a bushel on coal, a dollar a thousand on logs, 50 cents an acre on hay, to be paid to the Indian claiming the right to cut the hay, and 20 cents a ton as royalty. A certain sum yearly is charged for the "permit" to occupy a residential or business lot in town. All these operations are plainly illegal and in violation of solemn treaty rights and obligations, which provide that the land shall be the common property of all the Indians, and each tribe respectively is a party to the treaty as much as the United States.

Extent of Monopoly by Whites.

The extent to which monopoly has been carried is alarming. The common every-day Indian, honest, quiet, shrink-

ing in his nature, and, as a rule, living by himself away from the town and railway, in being crowded to the wall. Young men are bitterly complaining, as they ride over the wide pastures of the Indian and white cattle barons, that the land is all taken up, and they can find none upon which to make a home and start out in life. In one nation there are 3,000,000 acres of land, and 1,300,000 acres are controlled by 61 individuals. The following would be amusing, were it not alarming, because of its truthfulness. Some twenty years ago there came to the Territory a white man from a neighboring State, whom we will call H. H. Carbon. He married an Indian girl and thereby became a citizen of the tribe to which his wife belonged. He was bright and shrewd and saw and seized his opportunity, and has become during these two decades a man of property and influence. A few months ago an entertainment was being given in one of the towns in the coal-mining district. The well known farce, "The District School," was the feature of the evening. When the teacher called the class in "Jogryfy," she asked who could bound the Choctaw Nation. Johnnie raised his hand, and, as soon as he was recognized, he jumped up and said: "The Choctaw Nation is bounded by a barbed wire fence with H. H. Carbon inside of it." The laughter that followed showed that Johnnie's reply was the sentiment of the community. I have given this instance because such an incident will indicate the exact condition of affairs much better than the statement of a man consciously or unconsciously, but necessarily colored, by his personal interest in the continuance of present methods, or the pathetic plea of a paid Indian or white attorney before some committee in Washington, who pretends to be so concerned about the welfare of the common Indian and the fulfilling of solemn treaty rights and obligations.

When I asked a white man in the Seminole Nation to give me a definition of an Indian of the present day, he

promptly replied, "An Indian is a trustee of the title to the land in the interest of the white man." He thoroughly understood the situation.

Corruption and Crime.

The record of corruption and crime as given by the Dawes Commission, I firmly believe. I thought it incredible, when I read it, but I have paid special attention to these two points, and do not hesitate to say that the picture has not been overdrawn. In a criticism of the Dawes Commission report I find the statement, that there is more crime, as shown by court records, in the old steady-going State of Arkansas than in the Indian Territory. It must not be overlooked in this connection that the court at Fort Smith, Arkansas, has had jurisdiction over a large part of the Indian Territory, and this swells the record of Arkansas in crime. A comparative examination, however, of court records would cut a small figure with me, for I learned that there are many criminals who have never inspected the walls of either court-rooms or penitentiaries. And to this the statement of the critic himself that for years the Indian Territory has been the place of refuge of murderers, train robbers, horse thieves, bank robbers, and the outlaw class in general, and he proves too much. He gives his case away.

It has been said by some newspaper men, that they have visited the Indian Territory; that they saw no drunkenness or lawlessness; that life and property were secure as in the States, and the present condition of affairs should not be disturbed. I believe these men were honest and have at heart the welfare of the common Indian, whose rights these newspaper men do not see are being invaded, and I do not at all criticize their motive, but their method. I learned that they seldom, and in some instances never, left the railway towns. They interviewed some of the Governors and other officials and were entertained by them. They doubt-

less told what they saw and heard, but they saw comparatively little and what they heard was mostly on one side. In an investigation of a record of crime it must be remembered that people seldom flaunt their dirty linen before the public gaze; that a murderer does not often, the Indian almost never, commit his crime in a public place. I asked several prominent people, all of them nearly white, yet of Indian blood and men of influence and business, about that part of the Commission's report relating to crime in the Territory. They invariably said that it was a mistake; the Commission had been misinformed. They were intelligent men and ought to be well informed. Either they were ignorant of the true state of affairs or were unwilling to admit it, thinking it would reflect upon their civilization and their failure to govern themselves.

To one who only looks on the surface, the statement of the Commission, that the life and property are insecure, and official corruption is common, would seem untrue. At first I found it difficult to get people to talk. But after a while, when I made known that I was a representative of the Indian Rights Association and that I was after the truth in the interest of the Indians, and upon my personal assurance that I would not in any way use their names or localities, the evidence came, and it is evidence from reliable sources. Some of the parties I have personally known for several years. Much of the information was given me personally, though I have before me, as I write, numerous letters, all signed thoroughly reliable, but of a confidential nature. It was only after faithfully promising that I would not divulge the source of my information, that I could secure much of the data in this report. The reader will now readily understand why I have in so many instances failed to give names of places, the particular Indian nation referred to, individuals, and dates. There is what may be called a quiet reign of mingled fear and uncertainty, and the common Indian does not dare to talk lest what he says

may make him trouble, and this is also true of some of the honest officials.

A permit for a railway to go through one of the nations was obtained only after paying money. The council in session wanted $30,000, but the railway attorney finally got it through for $7000. The innocent reader need not think this money went into the National treasury.

An Indian was appointed as a judge who can't get credit. He will not pay his bills and is a general dead-beat.

The boodle business is denied only by the delegations who visit Washington. When the Dawes Commission first reported and stated they had failed in their attempts to negotiate, they were twitted about not *coming down* as the railway syndicates do.

Money will buy admission to the citizenship rolls. An Indian woman told me that upon her return she paid $200 to get her name put upon the roll, from which it had been stricken because of several years' absence in the States. An official told her that she had gotten through the lower house all right, but it would take $200 more to get through the upper. She declined to pay the money, and will put her case into the hands of the Dawes Commission, who will see that she has justice.

A company was organized to run a railway through two adjoining nations. There was a provision in the charter, granting the corporation every alternate section of land on either side of the railway for a distance of six miles through the richest coal land. It would have given millions of dollars to the railway, but when the common people of one of the nations heard of it, through work done by the Dawes Commission, they said, if this provision was retained in the charter, they would repeal it with their Winchesters. It was necessary for the two nations to agree. Only one had acted, and as the other failed to agree on account of the powerful Winchester-rifle argument, the railway corporation did not receive a present of a magnificent

setting of black diamonds, whose estimate value was ten millions of dollars.

An Indian was eloquently pleading for the rights of the poor common Indian, but, upon investigation, it was found that he was at that very moment himself controlling 8,000 acres of land.

A reliable white man informed me that in one of the nations 15 men control 1,000,000 acres of land.

An Indian judge stated that he could get the chairman of the citizenship application committee to call a meeting of the committee by paying $20, if he had plenty of whiskey, otherwise $50 would be necessary.

The method of paying the large sum of money received from the sale of the famous Cherokee strip was corrupting and demoralizing in the extreme. There are nine districts in the Cherokee Nation and a payment was made in each district. It is common talk, that no one pretends to deny, that the Cherokee officials, having the payment in charge, agreed to locate a payment at Vinita, a bustling and thriving town, if the citizens would pay them $2,500. After much hard hustling the sum was collected and paid over to these unselfish and patriotic citizens of the Cherokee Nation. A payment was accordingly located at Vinita, accompanied by its inevitable train of evils. At another place and payment the Sheriff rented the court-house for immoral purposes. The upper floor was given up to gambling, and the lower, where gathered Indians, negroes, low whites, and lewd women, to drinking, carousing, and fighting. After two nights the lower room was closed up, complaints were so numerous, but the room above was kept running. Gamblers, fakirs, 200 lewd women, from each of whom the Sheriff collected tariff and the thugs generally camped for days a few miles from this place of payment, and strove in every possible way to get the money paid the Indians. When the Sheriff was remonstrated with for the course he had pursued, he said, "Well! the

present order of things is not going to long continue; the land will be allotted, and the form of government changed, and I am going to make as big a haul as possible!" A prominent Cherokee, a man of intelligence and refinement, said, with reference to these payments, that the loss to his tribe in moral status could not be overestimated. "It was simply appalling. It would have been better for the Cherokees if they had never received this money."

In one nation three families control 30,000 acres of land. In some instances a poor man with a large family has to get along with a few acres,—in some rare instances six or eight. Almost everybody is preying upon the country. Very few seem to be praying in it or praying for it. I met in the Cherokee Nation a bunch of horse-traders, so-called, but really a bunch of dead-beats, living off the Indians' country. They would camp a week in one place, and then move to fresher pastures. There was a nondescript company of 24 human or inhuman white folks, or would have been white, had they been clean, of all ages and sizes, and of both sexes. They had six wagons, 12 work horses, and 30 trade horses.

In one of the nations there is an organized association, the object of which is to obtain citizenship for its members. Large numbers of intruders have joined this association. The head of the association assesses the members, and he makes a fine thing out of it. He has his salary and Washington expenses. He poses as the great factor in securing the creation of the Dawes Commission. But the Commission is looking after the interest of the Indian, while the association is trying to rob him. I rode some distance with a full-blood Indian who said there was corruption everywhere. He thought allotment would be best, if the Indians could be protected and the land secured for them. He did not understand, until I told him, why the Commission was in the Territory. He thought it was there to get the intruders on the roll of citizens. This is one of many

instances that might be given to show how persistently and relentlessly the Commission is misrepresented and maligned.

Corruption and misrepresentation are persistent and studied. A member of the Commission was being entertained by an intelligent Indian, a revenue collector for the nation. His sister, who had just returned from school for the summer vacation, was introduced to the Commissioner and was told that he was a member of the Dawes Commission. She immediately remarked, "Well! What is this Commission anyway? Something like the Cook gang?"

Collectors give only a nominal bond, and where officials in all departments of an Indian government "stand in" with each other, a suit against even a bonded defaulter would be the merest farce. The Attorney-General in one of the nations said that warrants amounting to $22,000 were placed in the hands of the collector. He collected $11,000 and accounted for less than $400.

I visited, with three members of the Commission, Tushkahomma, the capital of the Choctaw Nation. In the parlor of the hotel we met Mrs. McCurtain, widow of Governor McCurtain. She had called to pay her respects to the Commission, because she was afraid the present weak Governor would decline to meet them. Hear her for a few minutes:

"I am glad the Commission has been appointed, and I want to see the land allotted and the United States protect us, before it is too late. If we could live in quiet and peace and have our affairs honestly administered, as it was originally intended, and as we did in the early days, I would prefer that; but there has been a change, and allotment and United States citizenship must come and tribal relations cease."

United States Courts and Judicial Districts.

United States courts have recently been established, and the Territory divided into three districts. The northern

comprises the Cherokee, Creek, and Seminole Nations, with courts at Vinita, Tahlequah, and Muscogee, presided over by Judge Springer. The central district, composed of the Choctaw Nation, has courts at Atoka, South McAlester, Cameron, and Antlers, presided over by Judge Lewis. The southern district is in the Chickasaw Nation, with courts at Ardmore, Pauls Valley, Chickasha, and Ryan, presided over by Judge Kilgore. The courts at Paris, Texas, Fort Smith, Arkansas, and Wichita, Kansas, have heretofore had exclusive jurisdiction to try all capital offenses and nearly all felonies of any character, committed in the Indian Territory, of which United States courts have jurisdiction, but this jurisdiction by Act of Congress, was on September 1st transferred to the United States courts in the Territory. Offenses between Indians will still be tried in the Indian courts, and here is where much trouble arises. Weakness and corruption defeat the ends of justice, and this is one of the strongest proofs of the failure of these so-called civilized nations. Frequently offenders are not brought to trial, and often, when they are, money and influence combine to defeat the ends of justice. Were this not true, my record of crime would be untrue.

In a single year there were 100 murders in the Choctaw Nation. In one graveyard in this nation there were buried 31 men, Indians and whites, who died with their boots on.

I have before me, as I write, letters signed by reliable parties, giving page after page of names of people who have been murdered, with dates and localities. Under no circumstances would I divulge the names, tribes, or localities of the parties who gave me much of the above information. They might have to leave the Territory as an Indian did, not long ago, who is now in Missouri and dares not return.

Progress and Capabilities of the Indians.

I would not have the reader infer from the description that I have given of the people, of the country, of crime, of corruption, etc., that the Indians are all bad, or that they have no government at all. The Cherokee Nation has a constitution as well as the other nations, and they have their laws; they also have a system of schools, registration of physicians, and other requirements that are indications of civilization. They have, since the first treaty was proclaimed in 1785, made marked progress, especially in comparison with the wilder tribes of the far West, yet the fact remains that their present condition shows a failure to keep up and maintain a civilization in which there is justice to the people. I have met Indians of these five tribes that were well dressed, that have business qualifications of a high order, that speak the English language well, that are Christians, and in every way capable and honored citizens. This shows what the Indian is capable of, but the condition of affairs has come to be such that heroic measures must be taken, and that soon, and along right lines, in order, as Mrs. McCurtain in her speech said, that the "scraps of the ruins" may be saved. Governor Brown, of the Seminole Nation, impressed me as a man of integrity and good sense. He is an Indian, not a white man, carried on Indian rolls, and speaks good English. He is well informed, and thoroughly understands the situation, and, when the time comes, will favor allotment.

Land Holding in Common.

I was very much interested with an interview that I had with an Indian business man concerning the holding of land in common. He is a very progressive merchant and understands full well, that, in view of the changed conditions, there must come a different form of government and the individual holding of property. While he accepts

the situation, yet on the whole he looks upon it regretfully. He said to me, however, in regard to the land, that he believed there was a man in the States named George, who believed in the same manner of holding land that the Indians did, that is, the holding it in common. He said that no Indian could ever be deprived of a piece of land, upon which to locate his home, as is the case in the States, where there are so many landless people and so much poverty. He did not, however, tell me, what he doubtless must have well known, that there are Indians in his as well as in other nations, who, on account of land monopoly, cannot get even a small piece upon which to settle.

Feeling Toward Commission.

In my several visits with the Dawes Commission I had an opportunity to study in detail the methods of their work and to see how they were received. I also spent considerable time at each place I visited with the Commission going around among the people in the absence of the Commission to ascertain the feeling of the people. It is the almost universal feeling, when you get down to the actual condition of things, that a change must come and that the Commission is really the friend of the Indian, rather than the reverse, although misrepresented so generally as they are by those who have cattle, land, and other great interests at stake.

There is a feeling on the part of the people, that the Commission will do what is just, and that if they have the power, they will ultimately settle the question in a way that will be satisfactory to all. I was at times surprised to see how long and patiently the Commission would listen to the statement of some white man, who was evidently a dead-beat, and filling their ears with false evidence with reference to his claims upon Indian citizenship. Everybody was listened to attentively and quietly, and given the proper kind of advice, no matter whether

he was a wealthy Indian, white intruder, a boomer, a freedman, or some negro claiming to be a freedman, or some recent white arrival from Texas, Arkansas, Colorado, Kansas, or Missouri, who wished to get on the roll of Indian citizens. Some of the letters the Commission receives are ludicrous in the extreme. There is a young aspirant for Indian citizenship from Texas who wishes the Commission to give him the necessary direction about marrying a claim. From Arkansas comes a letter making inquiry of the Commission as to how much land a fellow can get, if he becomes a citizen, where the land would be located, the character of the land, the kind of crops that could be raised, the price that would be obtained for the products, and other questions of a similar nature. I have never heard of a Commission whose work has been so persistently and deliberately misinterpreted, and concerning whom such false reports have been scattered, as concerning the Dawes Commission. It is gratifying through it all to learn that its members are men of a high degree of intelligence and strictly upright, and have at heart the welfare of the Indian, and will work along these lines, in the face of all kinds of opposition that may arise. They can certainly be counted on to look after the interests of the Indian, no matter how much it may cost white people who have no business in the Territory.

With reference to the record of crime and corruption, it is hardly necessary to call the attention of the careers of the well-known Parker, Talbot, Cook, and Doolan gangs that have for years terrorized sections of the Territory. It is true that the public has been recently informed that Bill Doolan has again been killed. It is certainly hoped that this time he has been killed *dead* and will *stay* dead, and that we have heard the last of all these gangs of thieves and murderers. I notice, however, from information that comes to me just as I am closing my report, that there is trouble among the Choctaws since the recent election, and that

bloodshed is feared. From newspaper clippings that I am receiving from time to time, I am more than ever convinced that the report of crime and corruption is true. I quote the following from the telegraphic news columns of the Lawrence, Kansas, *Daily Journal* of September 4, 1896:

"MUSCOGEE, I. T., Sept. 4th.—Commissioner Yancey, of Tahlequah, I. T., telegraphed yesterday to Marshal Rutherford, of Muscogee, that his deputies were entirely unable to cope with the outlaws in that neighborhood, and that for the protection of the United States mails and citizens a larger force would have to be placed on the field immediately."

TREATIES WITH THE FIVE TRIBES.

A discussion of the present situation in the Indian Territory and its remedy would be incomplete without a quite full and complete consideration of treaties made between the United States and the five tribes. As the essential features in the treaties with all of the tribes differ very little, I shall confine myself to the treaties made by the United States Government with the Cherokees. The first treaty was concluded November 22, 1785. This treaty states that "The commissioners plenipotentiary of the United States in Congress assembled, give peace to all the Cherokees, and receive them into the favor and protection of the United States of America." It then names the conditions under which they are received, also states the boundary allotted to the Cherokees for their hunting grounds and the statement that the hatchet will be forever buried and the peace given by the United States, and friendship reëstablished between the said States on the one part and all the Cherokees on the other, shall be universal. In a treaty proclaimed February 7, 1792, I find the following:

"If any citizen of the United States, or other person not being an Indian, shall settle on any of the Cherokees'

lands, such person shall forfeit the protection of the United States, and the Cherokees may punish him or not as they please. No citizen or inhabitant of the United States shall attempt to hunt or destroy the game on the lands of the Cherokees; nor shall any citizen or inhabitant go into the Cherokee country without a passport first obtained from the governor of some one of the United States, or Territorial districts, or such other person as the President of the United States may from time to time authorize to grant the same."

A treaty was proclaimed December 26, 1817, between Major-General Andrew Jackson, Joseph M'Minn, Governor of the State of Tennessee, and General David Merriweather, commissioners plenipotentiary of the United States of America of the one part, and the chiefs, head men, and warriors of the Cherokee Nation east of the Mississippi, and the chiefs, head men, and warriors of the Cherokees on the Arkansas River, and their deputies. From the preamble of this treaty, I quote the following:

"Whereas in the autumn of the year 1808 a deputation from the Upper and Lower Cherokee towns, duly authorized by their nation, went on to the city of Washington, the first named to declare to the President of the United States their anxious desire to engage in the pursuits of agriculture and civilized life in the country they then occupied, and to make known to the President of the United States the impracticability of inducing the nation at large to do this, and to request the establishment of a division line between the upper and lower towns, so as to include all the waters of the Hiwassee River to the upper town, that by thus contracting their society within narrow limits, they proposed to begin the establishment of fixed laws and a regular government; the deputies from the lower towns to make known their desire to continue the hunter life, and also the scarcity of game where they then lived, and, under those circumstances, their wish to remove across the Mississippi River, on some vacant lands of the United States. And whereas the President of the United States, after maturely considering the petitions of both parties, on the 9th day of January, A. D., 1809, including other subjects,

answered those petitions as follows: 'The United States, my children, are the friends of both parties, and as far as can be reasonably asked they are willing to satisfy the wishes of both. Those who remain may be assured of our patronage, our aid, and good neighborhood. Those who wish to remove are permitted to send an exploring party to reconnoiter the country on the waters of the Arkansas and White Rivers, and the higher up the better, as they will be the longer unapproached by our settlements, which will begin at the mouth of those rivers.

"'When this party shall have found a tract of country suiting the emigrants, and not claimed by other Indians, we will arrange with them and you the exchange of that for a just portion of the country they leave, and to a part of which, proportioned to their numbers, they have a right. Every aid towards their removal, and what will be necessary for them there, will then be freely administered to them; and when established in their new settlements, we shall still consider them as our children, give them the benefit of exchanging their peltries for what they will want at our factories, and always hold them firmly by the hand.'"

Article 12 of the same treaty is as follows:

"The United States do also bind themselves to prevent the intrusion of any of its citizens within the lands ceded by the first and second articles of this treaty, until the same shall be ratified by the President and Senate of the United States and duly promulgated."

The land referred to in this article is the country then occupied by them east of the Mississippi River.

It is frequently stated by the Indians that the United States Government promised them the lands they now occupy as long as water runs and grass grows. This statement is not found in the treaties, but it is a matter of tradition that such an expression was used by General Andrew Jackson when counciling with the Indians. I will give the larger part of Article 2 of the treaty proclaimed May 28, 1828:

After preamble using the words: "It being the anxious desire of the Government of the United States to secure to

the Cherokee Nation . . . a *permanent* home, and which shall, under the most solemn guarantee of the United States be and remain theirs forever—a home that shall never, in all future time, be embarrassed by having extended around it the lines, or placed over it the jurisdiction of a Territory or State, nor be pressed upon by the extension, in any way, of any of the limits of any existing Territory or State, etc., etc.," the Article provides:

"The United States agree to possess the Cherokees and to guarantee it to them forever, and that guarantee is hereby solemnly pledged, of 7,000,000 of acres of land, to be bounded as follows, viz.: Commencing at that point on Arkansas River where the eastern Choctaw boundary line strikes said river, and running thence with the western line of Arkansas, as defined in the foregoing article, to the southwest corner of Missouri, and thence with the western boundary of Missouri till it crosses the waters of Neasho generally called Grand River; thence due west to a point from which a due south course will strike the present northwest corner of Arkansas Territory; thence continuing due south, on and with the present western boundary line of the Territory to the main branch of Arkansas River; thence down said river to its junction with the Canadian River; and thence up and between the said rivers, Arkansas and Canadian, to a point at which a line running north and south from river to river will give the aforesaid 7,000,000 of acres."

I quote also Article 6 of the treaty concluded at New Echota, in the State of Georgia, on the 29th of December, 1835:

"Perpetual peace and friendship shall exist between the citizens of the United States and the Cherokee Indians. The United States agree to protect the Cherokee Nation from domestic strife and foreign enemies and against intestine wars between the several tribes. The Cherokees shall endeavor to preserve and maintain the peace of the country and not make war upon their neighbors. They shall also be protected against interruption and intrusion from citizens of the United States, who may attempt to settle in the country without their consent; and all such persons

shall be removed from the same by order of the President of the United States. But this is not intended to prevent the residence among them of useful farmers, mechanics, and teachers for the instruction of Indians according to treaty stipulations."

Article 5 of the same treaty (1835) provides: "The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory. But they shall secure to the Cherokee Nation the right by their National Councils to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people or such persons as have connected themselves with them."

A treaty was proclaimed August 17, 1846, of which the following is the first article:

"That the lands now occupied by the Cherokee Nation shall be secured to the whole Cherokee people for their common use and benefit; and a patent shall be issued for the same, including the 800,000 acres purchased, together with the outlet west, promised by the United States, in conformity with the provisions relating thereto, contained in the third article of the treaty of 1835, and in the third section of the act of Congress approved May 28, 1830, which authorizes the President of the United States, in making exchanges of lands with the Indian tribes, 'to assure the tribe or nation with which the exchange is made that the United States will forever secure and guarantee to them, and their heirs or successors, the country so exchanged with them; and if they prefer it that the United States will cause a patent or grant to be made and executed to them for the same: *Provided, always*, That such lands shall revert to the United States if the Indians become extinct or abandon the same.'"

This treaty also contains the provision for a permanent home, not to be included without Indians' consent in the jurisdiction of any State or Territory, and also provides: "No one shall be punished for any crime or misdemeanor except on conviction by a jury of his county."

It is generally known that the five civilized tribes united with the Southern Confederacy in the late Civil War. At the close of the war legislation was necessary on their part that they might be restored to the condition that they were in before the war. These treaty provisions are all found in the treaty of 1866. The only articles in this treaty that have any bearing upon the discussion in hand are the following:

"Article 9. The Cherokee Nation having, voluntarily, in February, 1863, by an Act of their National Council, forever abolished slavery, hereby covenant and agree that never hereafter shall either slavery or involuntary servitude exist in their nation otherwise than in the punishment of crime, whereof the party shall have been duly convicted, in accordance with laws applicable to all the members of said tribe alike. They further agree that all freedmen who have been liberated by voluntary act of their former owners, or by law, as well as all free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees: *Provided*, That owners of slaves so emancipated in the Cherokee Nation shall never receive any compensation or pay for the slaves so emancipated."

"Article 26. The United States guarantee to the people of the Cherokee Nation the quiet and peaceable possession of their country, and protection against domestic feuds and insurrections, and against hostilities of other tribes. They shall also be protected against interruptions or intrusion from all unauthorized citizens of the United States who may attempt to settle on their lands or reside in their territory. In case of hostilities among the Indian tribes the United States agree that the party or parties commencing the same shall, so far as practicable, make reparation for the damages done."

"Article 27. The United States shall have the right to establish one or more military posts or stations in the Cherokee Nation, as may be deemed necessary for the proper protection of the citizens of the United States lawfully residing therein and the Cherokees and other citizens of the Indian country. But no sutler or other person connected therewith, either in or out of the military organization, shall be permitted to introduce any spirituous, vinous, or malt liquors into the Cherokee Nation, except the medical department proper, and by them only for strictly medical purposes. And all persons not in the military service of the United States, not citizens of the Cherokee Nation, are to be prohibited from going into the Cherokee Nation, or remaining in the same, except as herein otherwise provided; and it is the duty of the United States Indian Agent for the Cherokees to have such persons, not lawfully residing or sojourning therein, removed from the nation, as they now are, or hereafter may be, required by the Indian intercourse laws of the United States."

It will be seen from these extracts from various treaties that the United States has solemnly promised to protect the Indian in the peaceable possession of this land in common and to remove all intruders. I do not believe that any violation even of the *spirit* of these treaties can in any way be justified, unless the exigencies of the case are very great, unprecedented, and unconceived of by either party at the time the treaties were made. It will be said that the United States has not done its duty in keeping out intruders. In reply it can be said that measures have at times been taken to this end by the United States Government, and it must also be stated on the other hand, that it is the Indian governments, rather than the United States Government, that are responsible for the presence of these intruders in such large numbers in the nation as they are at the present time. The systems that have been adopted, whereby white people could come in, and, in accordance with the law of the tribal councils, remain and do business, have contributed to this condition of affairs. They have not only been allowed to come, but they have practically been invited and encouraged, so it is not a case where the United States Government is wholly to blame. It is doubtless true that it is practically impossible to remove the intruders,—the number has come to be so large. The United States

Government, however, has, within a few years, made efforts in this direction. A Commission has been appointed to appraise the value of intruder property with the intention of paying the intruders for their improvements and then requiring them to leave the Indian country. Such an Act was passed by Congress, March 3, 1893. The Commission was appointed and went about its work. In a letter from the Hon. D. M. Browning, Commissioner of Indian Affairs, to the Hon. Hoke Smith, Secretary of the Interior, under date of October 12, 1895, I find the following statement:

"By the provision contained in the act of March 2, 1895, Congress directed the suspension of action by the Department under the provisions of the Act of March 3, 1893, as the actual removal from the Cherokee Nation of persons designated by the authorities as intruders, until the appraisal of the value of the improvements of such persons shall have been completed and approved by the Secretary of the Interior, and submitted by him to Congress."

And the Commissioner, after referring in this letter to the work of the Board of Appraisers, says further:

"The report of the Board of Appraisers, as modified by this office, was approved by the Secretary of the Interior on August 3, 1895, and there remains now to be performed, in connection with this matter, and under existing law, only the duty of reporting the appraisal as approved to Congress preliminary to the commencement of the removal of the intruders in accordance with the Cherokee agreement."

The Cherokee agreement required that the intruders should be removed on January 1, 1897. The difficulty of handling this intruder question can best be seen by some extracts from the report of the Board of Appraisers under date of March 16, 1895:

"The intruders, practically, are all located in the cotton section of the Arkansas and its tributary, Canadian, and the prairie section of the country west and north of the Grand River, the most fertile sections of the nation. The

intruder rolls contain 2,858 heads of families. Of this number 1,337 are located in the cotton section and 1,367 in the prairie section.

"It appears that claimants coming from cotton States settled in the Arkansas Valley, and that those coming from cattle State of Texas, and from corn States of the North and West settled in the prairie section west of the Grand River. The cotton section is practically all occupied by intruders; the Indians have gradually retreated to the Flint Hill regions. The rich bottom lands of the Arkansas River are controlled by a few men who are also engaged in trading at Muldrow and other intruder towns. The appraisers found one intruder who had 14 tenants planting cotton for him on shares. He controls seven different farms and many town houses. Some of these farms he acquired through settlements on account of store goods advanced, and others were made by other intruders on lease for the use of the land for a stated number of seasons. About one-half of the cotton farms were made by renters for the use of the land, the claimant furnishing the 'right' to take the Cherokee public domain, and the lessee clearing and fencing the land. Few of the intruders cultivate their own fields, but have them planted and cultivated for cash rent, or for one-third share of the corn and one-fourth of the cotton crops.

"In the grass section west of the Grand River, the intruders usually cultivate themselves, or by renters, from 50 to 200 acres of land and save the remainder of the land inclosed for hay and pasture. Native hay in winter is in great demand for shipping to the Kansas City stockyards and the mining towns of southwest Missouri, and locally for feeding cattle shipped into the Territory. Native grass, for cutting hay, when fenced readily commands 25 cents per acre without labor to the owner of the fence. After the hay has been cut the owner of the fence can obtain from cattle men ten cents per head to graze steers thereon for the season. The demand for feed is so great that straw stacks are all disposed of to cattle men. Therefore it is not surprising to find nearly all the valuable land fenced up.

"In the matter of grass-land the Indians are placed at great disadvantage. The laws of the land prohibit the inclosing of more than 50 acres to each place or farm for hay

necessary to keep in operation the various departments of government.

It will be necessary for the United States Government to act firmly. Cattlemen not long ago held a meeting at Muscogee to look after their so-called interests. Those who are deriving profit from enterprises, as now conducted, can be counted upon to keep up an organized opposition and misrepresent the Commission to the very last.

It is important before much further work is done, that the instructions under which the Commission is now laboring should be so widened that they can investigate the rolls forwarded them by the chiefs of the nations and ascertain whether or not they are false. It is my belief, that there are many fraudulent names on the rolls, and that there are also many poor but deserving Indians who, through lack of money and influence with the officials, have not been able to get their names on the rolls and thus become sharers in property that is legally theirs.

I learn from various sources, just as I am closing this report, that the higher officials in all the tribes are manifesting a kindlier feeling toward the Dawes Commission and are now expressing a willingness to meet and confer with them concerning the changes proposed.

CHARLES F. MESERVE.

RALEIGH, N. C., *October 1, 1896.*

ADDRESS OF HON. H. L. DAWES, AT THE LAKE MOHONK INDIAN CONFERENCE, OCTOBER 14–16, 1896.

Mr. Chairman and Ladies and Gentlemen.—Mr. Meserve has relieved me of very much which ought to have been said about the Indian Territory, and in a much better manner than I could have done if it had been left to me.

The Dawes Commission (as it goes by that name in the

Indian Territory), when it was announced to them that they were about to be investigated, were glad enough to find into whose hands the investigation was committed, for they felt that they would be safe in the hands of any one so intelligent, so faithful, and so persistent in pursuing the right as Mr. Meserve. I will say for myself that although investigation sooner or later overtakes most public men, it did not reach me till rather late in life, and I must confess that when the charge was made that I was lacking in respect to the rights of the Indian I rather took it to heart.

I shall devote myself for the little time I have, entirely to trying to relieve those people who were properly enough sensitive at the idea that something was going to be done by me and by those associated with me, to violate the treaty rights with the Indians.

I think that a stranger studying the character of our country would hardly be surprised at anything so much as to be told that there was in this country under the common constitution of the United States, and under the same flag that floats over its capitol, still another people claiming under this very authority an independent power to govern and control itself without regard to the government or laws of the United States. If he should seek further for the reason, for the authority under which such a claim of independence is based, he would be puzzled far more to find either reason or authority in the constitution or in law for such a condition of things. He might wonder how it could be, how it were possible, that there could be carried on here any *imperium in imperio;* how there could be another nation within this nation, yet independent of it. He would want to know why it came about, and by what authority it could be built up, by, or under, or through the same constitution. If he sought it in the fact that it was a small community that had grown up incidentally and of so small relative importance that it did not matter anything, he would be mistaken, for it has a domain of 31,000 square

miles,—four times as large as the State of Massachusetts, and two-thirds as large as this grand State of New York. Ten Rhode Islands and Delawares put together could be placed inside of it, and still there would be room.

If he should inquire whether it might not be because of the peculiar character of the people in this independent territory he would still be mistaken. Since I have been in public service I have voted upon the admission into the Union of 13 or 14 States made up exactly of such a community as this is. The two States of Dakota were one territory made up of whites and Indians in almost all respects like this. The State of Minnesota, the State of Wisconsin, the State of Utah, the State of Nevada, the State of Oregon, the State of Washington, all of these States were made up exactly of the same kind of community and people. So it was not for that reason.

Was it because there are but few of them? Well, of these 13 or 14 States there was not one that had as many inhabitants in it when it became a State, after it had gone through the pupilage of the territory, as are now residents in the Indian Territory, a population from 360,000 to 370,000.

Can any one give a student of our institutions any answer why it is then that of all the territory in the States we have in the Union, there has been left this one, neither a State nor a territory of the United States, with no State or territorial government at all inside of this Union at the same time under this constitution and this flag?

There is no answer to this question in law or in the constitution, much less in the possibilities of continuance. It grows out of the belief of a large portion of the people of the United States that somehow and in some way they have bound themselves to let it be so; the belief that the United States has abdicated authority over this people. If it is really and rightly so it is to be respected and adhered to, so long as public safety will permit *and no longer.*

I respect those people who sent Mr. Meserve to the Indian Territory. I respect the sentiment that became anxious and solicitous lest we should be at work violating the treaty rights of these people. But I for one am unable to come to the conclusion that we ever did, or if we ever did we had the power to abdicate our authority over any one foot of the territory governed by the constitution and the flag of this country. I am happy to be able to believe that I shall show you, from the books, that we never attempted to do that, and I want to say to you that if we had, it was beyond the power of this Government under the constitution to do it. The constitution is the measure of the power of every branch of this Government. The constitution says this and this only about the territory of the United States: "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States."

Congress must make the rules, Congress must govern the Territory. No other authority exists in the Government to govern or control any foot of the territory of the United States outside of the District of Columbia except what I have given you, which requires Congress to do one of two things,—make all needful rules and regulations concerning it or else dispose of it—one or the other. They did dispose of this Territory. They granted this title to these lands to these people for a purpose, but the rules and regulations concerning it, the government of it, they not only never did sell to them but they never could have sold, if they had undertaken it. Mark you, it is *Congress* that must do this. The Congress of the United States has never attempted to do this. Whatever was done was in a sort of treaty not made by Congress, made by the Executive with these people as if they were a foreign nation, and there was not a jot of authority in the constitution for them to set up a government over a portion of the people of this country that shall be independent of the United States.

But they disposed of the title to the land and for what purpose? They conveyed the title to these nations for the benefit of the nations. Was it that the nations could sell it and dispose of it and make money out of it? Did the nations take it as you and I take a conveyance of sale? Not at all. They put it in the hands of these nations as trustees for each and every one of the citizen Indians. It is not worth while to go back of 1866, although the original arrangement was made seventy years ago, before this people had any idea that there could be such a thing as individual ownership by an Indian. That is why the title was put in the tribe or nation for the use of the Indians and not in the individual Indian. Land in severalty is a revelation of thirty years afterward. They took these people away into this country which was then six or seven weeks distant from civilized life, to make an atonement for the wrongs inflicted upon these nations in the States from whence they took them. They said to them you may do as you please out here.

At the time of the Civil War these Indians went to war with us, and they broke up by this the relations which had existed before 1866. After the war, the United States and these so-called nations made new treaties and established new relations. Afterward it came to be revealed that the way to advance civilization with Indians was not to isolate them but to put them on their own feet, to make individual citizens of them.

Every one of these treaties made since 1866 contemplates two things: First, that they shall hold this land strictly for the use of each and every Indian, share and share alike, and, secondly, they provided that the old system should pass away. It was provided that whenever they chose they might take land in allotment, and the United States would survey and allot the land for them at its own expense, and that whenever they chose they might establish a territorial government, and legislate upon subjects prescribed, whose scope and limitation depended on the approval of the President, subject also to the constitution and laws of the United States. Provision was also made for United States Courts in the Territory, post-roads, post-offices, and United States mails and railroads under United States laws,—a perfect surrender of autonomy, if it ever existed. Then they stipulated how the land should be held.

From a single treaty made with the Chickasaws and Choctaws, who held their land jointly, I read as follows:

"Revision of Indian Treaties," p. 276, lines 12278–12287; "Treaty of June 22, 1855, with Choctaws and Chickasaws. And pursuant to an Act of Congress, approved May 28, 1830, the United States do hereby 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 and every member of either tribe shall have an equal, undivided interest in the whole; Provided, however, no part thereof shall ever be sold without the consent of both tribes, and that said land shall revert to the United States if said Indians and their heirs become extinct or abandon the same."

The same thing is more or less clearly expressed in all the treaties of 1865–6.

That is what the United States solemnly guaranteed they would do, and when they do that and restore to every one of these poor Indians his equal share in every foot of that land and in every one of those coal mines and of those vast possessions, the end has come. Those who hold power there will unloose their grasp and have no further interest in opposing any proposition that will bring these tribes into harmony in their own relations and in their relation to the Government of the United States. That is what this Commission has been importuning the United States at one end and the Indians at the other, to do. That is what those who hold the power to gather the fruits of their iniquities, grasping them with greed, into their

pockets, have resisted to this day. This Commission has asked for the violation of no treaty obligation, however questionable might have been the power to enter by treaty into any such relation. They ask that these treaty stipulations may be enforced. They were charged from the beginning to say to these people: "We want none of your lands; our desire is that you shall do this yourselves." Every word that we uttered was taken down in shorthand and reported to the President of the United States. Of every communication we made to them a copy was sent to the Executive. In every one of them it has been made plain that we were there to present to them the reasons why this condition of things, so graphically reported by Mr. Meserve, could not continue in the midst of these people and in the midst of this Government. It is our conviction that this condition grows worse every hour that it continues. The courts all around there are filled up with trials of men for murders committed in the Indian Territory. One judge who has been there ten or fifteen years has sentenced something like 1,000 men to be hanged for crimes committed in that Territory. There is no description that can compare with the reality, and it was our duty to impress upon them that a change must come, and we showed them the way. We showed them how their fathers in 1866 contemplated the having of this land in allotment. We have not troubled ourselves about the territorial government or about their becoming a State in the Union. We knew full well that the moment they took their land in allotment and each one had his own possessions and came to know the value of his own home, all the rest would follow; he would be for having a government, law, and protection, and he would become a part of the United States and of the citizenship of the States like all the rest. That was our duty and we have adhered to it.

I am glad to say to you that the light is breaking in upon them. The Congress of the United States imposed new

duties upon this Commission last winter, after being convinced that we had not violated any of the treaty rights of the Indians, and that we were not departing from the path of justice. They imposed on us the duty of settling forever this question of citizenship, and there are now pending before the Commission, that are to be decided by the 10th of December, the final judgments of the Commission upon 7,300 cases of claimants for citizenship in that Territory. They see that the end is coming. The men who have the grasp there begin to see that they cannot tell where they will be when the end comes, and they propose to try the experiment of negotiating with us now. At this moment the Choctaw Nation, which a year ago came within one vote of passing a law making it treason to negotiate with us, has this fall at its election chosen a chief in favor of allotment. The Creek Nation, which has upon its statute-book a law making it a penalty of death to petition the United States for a change of their government, have appointed a commission, at the head of which is General Porter, whom all the men who have had anything to do with Indians know. Even the Cherokees, bound up more than any of them in the grasp of these men who have taken everything that is valuable, have appointed a commission to confer with us, and stalwart Bushy Head who was relegated to private life from the chieftanship some five years ago because he was in favor of allotment, was the man appointed at its head. It has been impressed upon them that the Congress of the United States is going to take this matter in hand if they do not choose to do it themselves.

But suppose they have an independent government now, who made it? The Government of the United States made it, and if the Government of the United States made it, it can unmake it. While the property conveyed to these people is a vested right that can never be taken from them, the political status is not a vested right. There is no political condition that is a vested right in this country. It is

constantly being changed by the power that made it, and the power that made whatever independent authority there is there, was the United States, and the United States has the power to resume it.

Now there is another way out of this. These nations hold their title, as I have read to you, in trust for the use of the people. What have they done? They have misappropriated the trust. They have taken that use from the whole people and have put it in the hands of a few, for their own private use, and what is plainer in a court of equity than that, when a trustee violates a trust he may be removed.

There are many ways out of this, not only to absolve ourselves from attempting to violate treaty obligations, but to take to ourselves some credit for enforcing the right. It is in behalf of the poor Indian, despoiled of his heritage, not of the white man, that we were sent down there; and it is in behalf of the Indian that we plead to have his possessions allotted to him either by his own act, or by the Government of the United States, or by some court in equity.

I ask this Conference, at whose hands those at work for the Indians have received so much support in times past, to understand that you have approached now what seems to me the most important of all the questions that confront you. Here is this vast territory belonging to 54,000 Indians, less than one-fourth of whom have any participation in it. All the others are driven off. I appeal to you in their behalf. Set them in the possession of their rights and then the remedy will be worked out after that. Give them, each one of them, what belongs to him, and he will see to it, that what is necessary under the laws of the United States he will have.

The whole matter is full of difficulties and perplexities. Take the mining interests. There are millions of dollars honestly and fairly invested in the coal-mines by outsiders. A law was made that any citizen Indian who would discover a deposit of coal should have the exclusive use of a mile all around it, with power to lease it. So they went to Pennsylvania where there are experts in coal mining, and got there experts, and they went out and told these Indians where to discover coal, and they discovered it and leased the land to capitalists. The Indian never could mine coal alone. It requires hundreds of thousands of capital, and this capital has come from Pennsylvania and elsewhere, and been invested honestly in these mines. It would be rank injustice to destroy all that property. It has got to be the work of negotiation and equitable disposition. The lands belong to all the Indians, not to the half-dozen who have discovered where the coal-mines are. The same is true of the town sites. Large towns of 5,000, 3,000, 2,000 inhabitants have been built by the whites on the land of these Indians, and vast sums of money spent upon them. I cannot tell you just how it shall be adjusted. I only say to you what I have said to these men: "We will sit down with you and we will try to work out a solution of this question that shall be not only just to you Indians but just to those men whom you have invited here and who have invested their capital in your work." All the southwestern country depends on those mines. Millions of property are involved in the question. How it shall be settled I wish I knew. The Commission is trying to make secure every man's rights in that Territory.