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Washington City,
September 3rd 1858.

Sir:

In compliance with your suggestion, we present, in writing, what we proposed to state in regard to the difficulties which have arisen among the Choctaws.

It is proper for us to premise that we do not assume to speak authoritatively for the Choctaws, or for either of the two contending parties into which they are, ^{now} unfortunately divided, but only as simply citizens of the nation, having sincerely at heart the peace, harmony and welfare of the Choctaw people.

The difficulties, as you are aware, are of a purely political nature, arising out of proceedings for a revision of the Choctaw Constitution, rendered necessary by the dissolution of the political union between the Choctaws and Chickasaws, affected by the treaty of 1833.

On the 8th November 1856 the Choctaw Council enacted a series of resolutions providing for the election of delegates to meet in convention, to amend the old or frame a new Constitution for the government of the Choctaw nation. Another act, passed two days afterwards, required that the clerks of the several districts into which the nation was divided, should act as clerks of the convention, and each take a copy of its proceedings for said districts. The convention duly assembled, and framed an entirely new Constitution; which was put in force without further formality, no copies of its proceedings having been taken

for the districts as required by the supplemental act of November 10th 1856.

Besides objecting to various provisions in this constitution, a large portion of the Choctaw people, embracing many of the best men in the nation, take exception to its being put in force without being submitted to the people for acceptance or rejection. They maintain that the law creating the convention gave it authority only to "frame" a new constitution, and did not empower that body to establish and put it in operation. They therefore deny that it has any binding force and obligation. They further allege, on information received from some of the delegates, that it was the understanding in the convention that the constitution would be submitted to the people, opposition to contested propositions having, on several occasions, been withdrawn on that ground; and they contend that the fourth article of the Schedule to the Constitution, the last work of the convention, shows that such was the intention; the words "After the adoption of this constitution" clearly meaning its adoption by the people; the convention having authority only to "frame" it.

The people have never seen the constitution as framed, nor any authenticated copies of it, the law requiring copies to be taken for the several districts, not having been complied with. They have only seen it in print; and it has been alleged by members of the convention, and is generally believed by those opposed to it, that as printed it contains provisions of an objectionable character which were voted down in the convention, or that some of an important nature which were adopted by the

convention, do not appear in it.

At first, supposing that everything would be right, some of the individuals, now opposing the said constitution were candidates for office under it, but objections arising to it among the people and difficulty being apprehended, an agreement or understanding was had among the principal candidates — those for the office of governor — that they would not run, and that it would be best to go on as well as they could under the old constitution of 1850, until some arrangement could be made about submitting the new one to the people. Accordingly the next elections in two of the districts, embracing about three fourths of the population of the nation, were held under the old Constitution; and except in some scattering precincts, no elections have been held in these two districts, under the new constitution, and they have therefore generally remained unrepresented in the government formed under it.

The agreement above mentioned was not adhered to. One gentleman persisted in being a candidate for governor; and to prevent his election the friends of one of the other candidates, Judge Wade, insisted on his running, and he having received the greater number of votes, assumed the office of governor. The other officers provided for by the new constitution having been voted for at the same time, a government was thus formed under that instrument.

The opponents of the new constitution contend that these proceedings were bad, and the government so formed has since been sustained, only by a

minority of the people, they, the majority, continuing to stand aloof and contending for the submission of the constitution to the people. Failing to obtain any concession from the other party on this point, they finally proceeded to get up another convention, which met at Doaksville in May last and framed another constitution, to be submitted to the votes of the people on a certain day. In consequence of its being understood, that one of the Choctaw delegates, Peter Folsom, had returned to the nation with instructions from the department, intended to bring about a compromise of the difficulties between the two parties, the elections in the counties where that understanding prevailed were suspended, which led to the impression that this opposing constitution had received but comparatively little support. The erroneous impression of that understanding having been ascertained they have since gone on to hold the elections in those counties, and it is confidently anticipated that the result will show a clear, if not a large majority of the Choctaw people in favor of the Doaksville constitution.

Thus have the Choctaw people unfortunately become divided into two opposing and contending parties; between which so bitter a controversy has arisen that neither can be induced to yield to the other. The party upholding the first constitution, and who are in office under it, require those of the other party to submit to it. This they will not do, nor recognize the validity of any proceedings, or the authority of any one holding office under it. Any attempt to compel them to do so, it is feared, will only make matters worse.

The question is, what can the government do to put an end to this lamentable and dangerous state of affairs? It can decide whether a constitution adopted by the Choctaws, and the laws enacted by them, are compatible with the Constitution of the United States, and the laws passed by Congress for the regulations of trade and intercourse with the Indian tribes, and can enforce its decision in that regard; but it has not jurisdiction of the question of the validity and binding authority upon the Choctaws of a Constitution or laws, purporting to have been adopted or enacted by them. It may in the present case, decide indirectly for itself upon the validity of the first or Scallyville Constitution by determining to continue to recognise those in office under it, but that will not settle the difficulty. It does not follow that a majority of the Choctaws are legally bound to recognise them, and it is more than feared they will not.

The safest and probably the best and most effective course for the government to adopt, would be to recognise neither party, and not go into the question of the cause or origin of the difficulty - to take the ground that the treaty of 1835 invested the Choctaws with the right of self government, coupled of course with the obligation to exercise that right in an orderly and peaceful manner, and so as not to engender strife and lawlessness, or to jeopard the peace and security of the neighboring frontiers of the United States. If failing to do this they are not fulfilling this obligation under the treaty in good faith, thereby absolving the government, for the time being, from the obligation of carrying

out the treaty on its part. That it will take no further steps to that end, and consequently pay over no more money to them until they unite quietly and peacefully and harmonize and settle their difficulties. This would place all on an equality, and show them conclusively that nothing is to be gained by proceeding further in their dissensions; and, backed by judicious counsels of some discreet and impartial person, would, we think, lead to an immediate compromise and termination of all the difficulty.

We are respectfully,
Your Obedient Servants
P. J. Pitchlynn
Samson Folsom

Hon: Chas. C. Mix,
Commissioner of Indian Affairs.