

SUPERIN-  
TENDENT  
FOR  
FIVE  
CIVILIZED  
TRIBES



VOL. 4

FOREMAN  
TRANSCRIPT

Copies of

MANUSCRIPTS

In the Office of the  
SUPERINTENDENT FOR THE FIVE CIVILIZED TRIBES  
MUSKOGEE, OKLAHOMA

(CHOCTAW - CHICKASAW)

Oct. 7, 1898  
to  
Sept. 23, 1909

Compiled from original records  
selected by

GRANT FOREMAN

CHS



In order that the Rules made by the Secretary of the Interior October 7th, 1898, may comply with and carry into effect the Agreement between the United States and the Choctaws and Chickasaws, proclaimed at Atoka August 30th, 1898, they are modified to read as follows:

Each Choctaw and Chickasaw citizen, except Freedmen, may select in manner provided in said Rules, in lieu of the two hundred and forty acres therein specified, one hundred and sixty acres of land as a homestead, from any lands upon which he now owns the improvements, or from any lands not occupied or in the possession of any other citizen.

Any citizen holding land in excess of that to which he and his family are entitled, under Act of Congress June 28, 1848 who fails or refuses to make selections for himself and family of land which they may hold under said Act within four months after the Commission shall locate its offices within said tribes, will be deemed to have elected to hold the forty acre subdivision upon which his residence or most valuable improvement is located, and the contiguous lands, in amount to which he and his family are entitled as therein provided; or the same may be selected and set apart to him and his family by the Commission to the Five Civilized Tribes.

Any citizen desiring to make selection of lands now occupied by another citizen shall be required, at the time of filing his application, to make proof to said Commission that the lands so selected are held by the present occupant contrary to the provisions of Sections 16 and 17 of the Act of Congress, of June 28, 1898, and no certificate of his selection shall be



issued to said applicant until the party occupying said lands shall have been dispossessed as provided in Section 18 of said Act.

No citizen will, however, be permitted to select lands for a homestead which, by reason of the location, are in value more than his pro rata share of the value of the whole lands of said tribes.

Choctaw and Chickasaw Freedmen may each select forty acres in manner aforesaid.

Citizens making selections of homesteads, and Choctaw Freedmen making selections of forty acres, as herein provided, shall receive patents therefor, as provided in said Agreement proclaimed August 30th, 1898.

After all citizens and freedmen have made selections as aforesaid, they may thereafter remain in undisturbed possession of other lands held by them, so far as permissible under the Act of Congress of June 28, 1898, except pasture lands held contrary to Choctaw and Chickasaw laws, until general allotment of the lands of said tribes.

143

(Endorsed) Union Agency # 143. Amended rules for allotment in Choctaw-Chickasaw Nation.



3

DEPARTMENT OF THE INTERIOR.  
Washington.

November 11th, 1898.

Hon. A. S. McKennon,

Member of the Commission to the

Five Civilized Tribes,

Muscogee, I. T.

Sir:

I am in receipt of your letter of the 4th instant, in which you state that in consultation, with Inspector Wright upon the regulations prescribed by the Secretary governing mineral leases in the Choctaw and Chickasaw nations, under the provisions of the Agreement of April 23, 1897, as set out in the Act of Congress approved June 28, 1898 (30 Stat., 495), "you discovered that the confirmation of all lease contracts made by the National Secretary (Agent) operates to give that class of persons great advantage over anyone who might make a subsequent lease of coal under the terms of the treaty . . . that they would be required to pay only twelve and a half cents per ton on screened coal while it was contemplated that under the treaty all persons should pay fifteen cents per ton on all coal mined;" that the latter would be almost double the former and the contracts so confirmed would run about five years and deprive said nations "of nearly half the royalties which, under the treaty, it was intended they should have; that these conditions make it impracticable to administer their coal interests fairly and profitably, and that "while the Secretary is left to regulate royalties he cannot, of course, do so in



4

a manner contrary to these confirmed contracts." You further state that with Inspector Wright you visited the Choctaw and Chickasaw Councils then in session which passed an act respectively for the appointment of a commission by the Governor to negotiate with the 'Dawes Commission' for the amendment of the coal clause of said Agreement in Sec. 29 of said act so as to remedy the evils complained of. You also state that said acts will be promptly certified to the President with request that they be approved and returned as soon as possible to the end that the commission above referred to may meet at Ardmore on the 21st instant.

In reply, you are advised that by the provisions of said agreement, it is declared that --

"All coal and asphalt mines in the two nations, whether now developed, or to be hereafter developed, shall be operated, and the royalties therefrom paid into the Treasury of the United States, and shall be drawn therefrom under such rules and regulations as shall be prescribed by the Secretary of the Interior."

It is also provided that --

"All contracts made by the National Agents of the Choctaw and Chickasaw Nations for operating coal and asphalt, with any person or corporation, which were, on April 23, 1897, being operated in good faith are hereby ratified and confirmed, and the lessee shall have the right to renew the same when they expire, subject to all the provisions of this Act."

It is further declared that "all agreements heretofore



made by any person or corporation with any member or members of the Choctaw or Chickasaw nations, the object of which was to obtain such member or members' permission to operate coal or asphalt, are hereby declared void," and further that "all leases under this agreement shall include the coal or asphaltum, or other mineral, as the case may be, in or under 960 acres, which shall be in a square as nearly as possible, and shall be for thirty years. The royalty on coal shall be fifteen cents per ton of two thousand pounds on all coal mined, payable on the 25th day of the month next succeeding that in which it is mined."

On September 14, 1898, the Department received the petition of the Choctaw, Okla. & Gulf R. R. Co, the Atoka Coal & Mining Co., the Osage Coal and Mining Co., the Kansas and Texas Coal Co. and the Southwestern Coal and Improvements Co., filed by their council in this city, in which it is alleged that said petitioners "own by lease and operate the principal coal mines in the Indian Territory and their mines are all within the Choctaw nation;" that the coal mines of said Territory during the year ending June 30, 1898, according to the report of the Mine Inspector for the Indian Territory produced 1,453,098 tons, of which amount said companies mined 1,343,371 tons. It is further stated that by the terms of the Agreement set out in section 29 of the Act approved June 23, 1898, which was ratified on August 24, 1898 "royalties due individual Indian citizens have been abolished and the Secretary of the Interior has been and is authorized and empowered to fix the royalties



to be paid the Indian Nations on coal mined therein" . . . .

"that the royalties to be paid the Indian Nations on coal as fixed by said act and by agreements heretofore made between those Nations and the Coal companies are unreasonably excessive and should be reduced, and that it is to the best interests of those nations that the royalties should be fixed at a reasonable and just rate." . . . .

"that the royalties fixed by the act of Congress and the present contracts are higher than those paid elsewhere in this country and greatly higher than paid at those mines, notably in Arkansas, Kansas, Missouri, Texas, Colorado and Alabama, where coal is produced which comes in competition with the Indian Territory coal, in the markets" . . . . "that the first payment of royalties to become due thereunder since the ratification of the treaty by the Choctaw and Chickasaw Nations will be payable on or before October 25, 1898, and it is therefore highly important that the royalties to be paid shall be fixed by the Secretary of the Interior at the earliest practicable period."

Said petition closes with the prayer "that the Secretary of the Interior may fix a time and place for the hearing of the questions presented by this petition; that the proper representatives of the Indian Nations be notified thereof, and that the general method of presentation of your petitioners' claims may be prescribed and that a hearing may be had and the royalties on coal fixed at a reasonable and just rate, and for such orders as may seem meet."

On the same day said resident counsel were notified that said trustees provided for in said Agreement had not been appointed and that "as soon as practicable after their appointment



the question whether a hearing shall be ordered as requested by you, will be duly taken up by the Department, and the conclusion will be duly made known to you."

Afterwards, on October 7, 1898, the Department issued regulations governing mineral leases in the Choctaw and Chickasaw Nations under the provisions of said Agreement set out in Section 29, and paragraph 9 of said regulations provides:

"Persons, corporations, and companies, who, under the customs and laws of the Choctaw and Chickasaw nations, have made leases with the national agents of said nations of lands therein for the purpose of mining coal, asphalt, or other minerals, and who, prior to April 23, 1897, had taken possession of and were operating in good faith any mine of coal, asphalt, or other minerals in said nation, shall be protected in their right to continue the operation of such mines for the period and on the terms contained in the lease made to said persons, corporations, or companies by such national agents, and shall have the right, at the expiration of said term, to renew the lease of such mines, subject, however, to all the provisions of said agreement and of these regulations."

On October 15 last, the attention of the Department was called by the Indian Inspector for the Indian Territory to the following words in said paragraph -- "terms contained in the lease," and the suggestion was made that these words ought to be eliminated. On October 17 the Department advised said Inspector that the words "on terms contained in the lease" were inserted in the regulations after mature consideration in compliance with the provisions of the Agreement set out in Section 1431



29 of said Act, and that "the regulation in paragraph 9, providing that the lessees mentioned therein shall be protected in their right to continue the operation of such mines for the period and on the terms contained in the lease made to said persons would be in conformity with the express provision of law which the Secretary of the Interior has no power to change." He was further advised that "it is confidently believed that you will have no serious difficulty in enforcing the regulations prescribed, and should any contingency arise requiring a change the same can be presented to the Department for its consideration, and appropriate action will be taken.

It is the understanding of the Department that the lessees who have made leases with the National Agents of said nations have agreed to pay one-half cent per bushel as royalty to said nation, amounting to twelve and one-half cents per ton, and in addition thereto, to pay one-quarter cent per bushel to individual members thereof, amounting to six and one-quarter cents per ton, so that the royalty of fifteen cents per ton would not be in excess of the amount agreed to be paid by said lessees under their said agreements. In any event, it is the intention of the Department, that the royalty to be collected from said companies under paragraph 9 of said regulations shall be fifteen cents per ton, unless the same is modified by the Secretary of the Interior, upon a hearing had for the purpose of determining whether said rate is excessive and not for the best interests of said nations. That it was the understanding of the companies operating coal mines in the Choctaw Nation, that they were to pay a royalty of fifteen cents per ton under said

1431



agreement is clearly shown by the petition filed with the Department above referred to. A hearing on said petition filed by the resident counsel of said coal companies in the Choctaw Nation has been fixed for Wednesday the 23d instant.

The acts of the Choctaw council referred to by you have not yet reached the Department. If, however, there are any facts known to you tending to show that the collection of fifteen cents per ton royalty is not for the best interests of said nations, and should either be reduced or increased by the Secretary, you will communicate the same to the Department for its consideration at your earliest convenience.

Respectfully,

C. W. Wise

Secretary.

Ind. Ter. Div.

816-1898.

(Endorsed) Union Agency No.1431 Commission to Five Tribes. Department Washington 11/11/98-----Relative to coal leases, and legislation touching thereon.-----



DEPARTMENT OF THE INTERIOR,

Washington,

January 9th, 1899.

Mr. J. George Wright,

Indian Inspector for  
the Indian Territory.  
Muscogee, I.T.

Sir;

Inclosed herewith you will find a copy of the decision of the Department of the 6th instant, reducing the rate of royalty on coal in the Indian Territory and the amendments to the Regulation of the Department of October 7 and November 4, 1898, prescribed under the provisions of the Act of Congress approved June 28, 1898 (30 Stat., 495). You will give due notice of this action of the Department to the Mineral Trustees of the Choctaw and Chickasaw Nations appointed under the provisions of the 29th section of said Act.

Respectfully,

Thos. Ryan,

Acting Secretary.

Ind. Ter. Div.  
No. 358-1898  
3 Incls.

Through the Commissioner  
of Indian Affairs.

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Respectfully returned with the request that I be furnished with copy of decision therein referred to, with return of this letter.

Muscogee, I.T., March 15, 1899

J. Geo. Wright  
U.S. Indian Inspector  
For Indian Territory.



Jan. 31, 1899 //

MILBY & DOW COAL & MINING CO.

Voucher No.128

Month of January 1899.

To D.M.Wisdom U.S.I.A. Dr.  
for use of Choctaw and  
Chickasaw Nations,  
Muskogee, I.T.

Jany.31

Royalty on 3418.12 tons of coal  
from shaft No.9 in month of Jany.,  
1899 @ 10¢ per ton

\$ 341.86

Choctaw Nation \$256.40

Chickasaw Nation 85.46

Received of MILBY & DOW COAL MINING CO the sum of Three hundred  
and forty one dollars and 86/100.

\$341.86

(Endorsed) Union Agency No.240 Received at Union Agency, Muscogee,  
I.T. MILBY & DOW COAL & MINING CO in favor of D.M.Wisdom, U.S.I.A.  
amount \$341.86 for Coal Royalty----







(Endorsed) Union Agency No.237 Received Union Agency, Muscogee, I.T. March 31, 1899 Sworn Statement accompanying remittance of Hailey Coal and Mining Co. Haileyville, I.T. for month of January, 1899 amount \$75.24----



14

CHOCTAW, OKLAHOMA & GULF R.R.CO.

Legal Department  
Department No.---127---

To D.M.Wisdom,U.S.Indian Agent, Dr.  
Address Muscogee, I. T.-----

Date

February 14,1899. FOR advance royalties on new coal leases under the provisions of section 32 of the Act of Congress, approved June 28, 1898, entitled "An Act for the Protection of the people of the Indian Territory and for other purposes," being \$100.00 per annum in advance, as provided in said Act of Congress, for the following leases: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 28 and 29, as shown by the maps and plats of said coal leases filed with the Coal Trustees of the Choctaw and Chickasaw Nations, and to become a permanent record in the office of the Secretary of the Interior, which coal leases have been assured to the Choctaw, Oklahoma and Gulf Railroad Company by new leases executed by the Honorable N.B.Ainsworth and the Honorable L.C.Burris,Coal Trustees for the Choctaw and Chickasaw Nations of Indians, and approved by the Honorable J. George Wright, U.S. Indian Inspector for the Indian Territory,---

2700.00

CERTIFIED:  
J.W.McLoud,  
General Solicitor.  
\$2700.00



Received of the CHOCTAW, OKLAHOMA & GULF RAILROAD CO.,  
the sum of Twenty-seven Hundred-----Dollars,

D.M.Wisdom,U.S.Indian  
Agent. (J.F.W.)

(Endorsed) Union Agency No.246 For advance royalties on new coal  
leases--CHOCTAW, OKLAHOMA & GULF RAILROAD CO. amount \$2700.00 in  
favor of D.M.Wisdom U.S.Indian Agent----



CHOCTAW, OKLAHOMA & GULF R.R.Co.

Month of Jany.1899

Mining Department

Department No.26

Month of January 1899.

To Dew.M.Wisdom,U.S.I.A., Dr.  
For use of Choctaw & Chickasaw  
Nations,  
Address, Muskogee,I.T.

Date

January 31

FOR Royalty on coal mined during Jan.1899

as below at 10 cents per ton:

11420	1-20 tons at slopes 1 & 7 Alderson I.T.--	1142.00
15581	11-20 tons at shaft 1 Hartshorne I.T.-----	1558.15
6324	13-20 tons at shaft 3 Gowen,I.T.-----	632.46
538	9-20 tons at slopes East of Alderson,I.T.	54.85
		<u>\$3387.46</u>

Choctaw Nation-----\$2540.60

Chickasaw " ----- 846.86

\$3387.46 Received of the-----

CHOCTAW, OKLAHOMA & GULF R.R.CO. the sum of -----

Thirty three hundred eighty seven & 46-100--Dollars.

in full settlement of the above voucher.

Audited---S.J.Hayden.

(Endorsed) Union Agency No.230 Received at Union  
Agency, Muskogee, I.T. March 31, 1899 Sworn statement  
accompanying remittance of Choctaw, Oklahoma & G.Ry.  
So. McAlester, I.T. for month to January 1899 amount--  
\$3387.46-----



This is to certify that the statement hereto attached is a complete statement of the amount of money due the Choctaw Nation for royalty on coal mined by the Choctaw, Oklahoma & Gulf Railroad Company during the month of January 1899 and the same is true and correct to the best of my knowledge and belief.

Edwin Ludlow.

Subscribed and sworn to before me this 17 day of February 1899.

Geo.W.Walshe.

Notary Public.

My commission expires October 14,1902.



18

CHOCTAW, OKLAHOMA & GULF R.R. CO.

Legal, Department.  
Department No.140.

To D. M. Wisdom, U.S.Indian Agent, Dr.  
Address Muscogee, I.T.

Date

February 21, 1899

FOR advance royalties on new coal leases under the provisions of section 32 of the Act of Congress of June 28, 1898, entitled "An Act for the protection of the people of the Indian Territory" and for other purposes, being \$100.00 per annum in advance, as provided in said Act of Congress, for the following leases: Leases Nos. 21, 22 and 30, as shown by the maps and plats of said coal leases filed with the Coal Trustees of the Choctaw and Chickasaw Nations, and to become a permanent record in the office of the Secretary of the Interior, which coal leases have been assured to the Choctaw, Oklahoma and Gulf Railroad Company by new leases executed by Hon.N.B.Ainsworth and Hon.L.C.Burris, Coal Trustees for the Choctaw and Chickasaw tribes of Indians, and approved by Hon.J.George Wright, U.S.Indian Inspector for the Indian Territory,--  
300.00

CERTIFIED:  
J.W.McLoud,  
General Solicitor.  
\$300.00

Received of the CHOCTAW, OKLAHOMA & GULF RAILROAD CO.,----the sum  
of Three hundred and no/100-----Dollars,

D.M.Wisdom,U.S.Indian Agent.



(Endorsed) Union Agency No.246 CHOCTAW, OKLAHOMA & GULF RAILROAD  
CO.For advance royalties on new coal leases, in favor of D.M.  
Wisdom,U.S.Indian Agent. Amount \$300.00----



20

D E P A R T M E N T O F T H E I N T E R I O R,

Washington.

February 24th 1899.

J. George Wright,

U.S. Indian Inspector,

Muscogee, Indian Territory.

Sir;

I am directed by the Secretary to advise you that the Department has forwarded to your Office, this day, 100 copies of Indian Territory mining leases for the Choctaw and Chickasaw Nations, which are to be executed in quadruplicate, making 400 separate sheets.

On December 2nd, last, you were advised that "when applications are allowed by you a copy of the rules and regulations governing mineral leases in said nations should be given to the lessee in order that he may fully understand the conditions upon which said lease is made, and you will so advise the mineral trustees of said nations."

You are further advised that 100 copies of mineral leases with bonds, affidavits and sureties, prescribed under the general provisions of the Act of June 28th 1898 (30 Stats., 495), for leasing mineral lands in the Indian Territory have also been forwarded to you. In as much as the recent agreement with the



Cherokee and Creek Nations does not provide for the leasing of mineral lands it is deemed advisable that no application to lease be approved by you until final action shall be taken upon said agreements by Congress and until you are further instructed by the Department.

Respectfully,

Edward M. Dawson  
Chief Clerk.

Ind.Ter.Div.

Through the Commissioner  
of Indian Affairs.

(Endorsed) Union Agency Number 7, Received Feb 28, 1899 Office of U.S. Indian Inspector for Indian Territory. Washington, Feb 24, 1899. Secretary.----Copies of blank mineral leases forwarded; instructions as to Cherokee & Creek applications.



"The Choctaw Route."

Month of Feby.1899

CHOCTAW, OKLAHOMA & GULF R.R. CO.

Mining Department.

Department No.23.

February 1899.

To.Dew.M.Wisdom U.S.I.A. Dr.

For use of Choctaw & Chickasaw

Nations,

Address---Muskogee I.T.

Date

Feby.28

FOR Royalty on coal mined during the month of

February 1899 as below @ 10¢ per ton

3961	9/20	Tons at Slopes 1 & 2	Alderson I.T.	396.14
6466	13/20	" " Shaft 1	Hartshorne, I.T.	646.67
2991	16/20	" " " 3	Gown, I.T.	299.18
244	16/20	" " Slopes east of Alderson		<u>24.48</u>
				1366.47

Detail

Choctaw Nation \$1024.85

Chickasaw Na. 341.62

Audited

S.J.H.

1366.47

(Endorsed) Union Agency No.267 CHOCTAW, OKLAHOMA & GULF RAILROAD CO. Mining Department. amount \$1366.47 in favor of Dew.M.Wisdom, U.S.I.A.Muskogee, I.T.--Royalty on Coal, Received at Union Agency Muscogee, Mar.27,1899.-----



March 14, 1899.

This is to certify that the statement hereto attached is a complete statement of the amount of money due the Choctaw and Chickasaw Nations for royalty on coal mined by the Choctaw, Oklahoma & Gulf Railroad Company during the month of February, 1899, and the same is true and correct to the best of my knowledge and belief.

Edwin Ludlow.

Supt.Mines.

C.O.& G. R.R.Co.

Subscribed and sworn to before me this 14 day of March, 1899.

Geo.W.Walsh.

My Commission expires Oct.14, 1902.



Union Agency,

Muscogee, I.T., March 9, 1899.

Mr. J. C. Arnett,

Catale, I.T.

Dear Sir:-

You are informed, in reply to your letter of late date, that the address of U.S. Inspector J. George Wright, is Muscogee, I.T.

You are further informed that the Curtis Bill will be enforced and that it is now the law of the Territory. Where its provisions conflict with the agreement made between the Chickasaws and the Choctaws, the agreement prevails.

Section 17 of the Curtis Bill, says--

"That it shall be unlawful for any citizen of any one of said tribes to inclose or in any manner, by himself or through another, directly or indirectly, to hold possession of any greater amount of lands or other property belonging to any such nation or tribe than that which would be his approximate share of the lands belonging to such nation or tribe and that of his wife and his minor children as per allotment herein provided; and any person found in such possession of lands or other property in excess of his share and that of his family, as aforesaid, or having the same in any manner inclosed, at the expiration of nine months after the passage of this Act, shall be deemed guilty of a misdemeanor."

I presume that this section sufficiently answers your question as to the pasture mentioned in your letter, for you say in said letter, "that there is more of this land or pasture than you and your neighbors could hold in case of allotment."

Very Respectfully,  
D.M.Wisdom. U.S. Indian Agt.



Approved:

J. Geo. Wright.

U.S. Indian Inspector.

(Endorsed) Union Agency, Muskogee, Oklahoma, Press Book # 1,  
Letter, # 168.



FRISCO LINE

ST. LOUIS AND SAN FRANCISCO RAILROAD CO.

To Dew.M.Wisdom

Indian Agent, Union Agency, Muskogee, I.T.

1899.

March 18.

For royalty due the Choctaw and Chickasaw Nations for rock removed from Jack Fork Quarry during month of February 1899.

468 cars @ 10¢

46.80

T.M.Bisbee  
Supt.T.B.& B.

Division	Account No.	Amount.
Texas	86	46.80

From the St. LOUIS AND SAN FRANCISCO RAILROAD CO., --Forty Six and 80/100-- Dollars.

(Endorsed) Union Agency No. 271 ST. LOUIS AND SAN FRANCISCO R.R. CO. - Dew.M.Wisdom Indian Agent, Union Agency Muskogee, I.T. \$46.80----



## ACCOUNTS PAYABLE.

ATOKA COAL AND MINING CO., Co. D.M. Wisdom, U.S. Indian Agt. Dr.  
 Address Union Agency, Muskogee, I.T.  
 Account Choctaw & Chickasaw Na.

Date Voucher made March 20, 1899.

Date Liability Incurred.

Feby. 1899.

FOR and in full for royalty due the United States, account of the Choctaw and Chickasaw Nations, on coal mined by the Atoka Coal and Mining Co. during the month of Feby. 1899, as directed by the Interior Department Washington, D.C. under an amendment issued Jany. 6, 1899 effective Jany. 1, 1899, to rules and regulations governing Mineral Leases &c. approved Nov. 4, 1898. Said royalties as provided therein, being paid through the Indian agent in charge of the Union Agency, under circular instructions issued by the Interior Department, dated July 21, 1898.

Mine No. 5	<u>Choctaw Nation</u>				
	855460	tons	@7 1/2	\$641.59	
Mine No. 6	<u>771140</u>	"	@7 1/2	578.35	\$1219.94
				<hr/>	
Mine No. 5	<u>Chickasaw Nation</u>				
Mine No. 6.	8554.60	tons	@2 1/2	\$213.86	
	<u>7511.40</u>	"	@2 1/2	192.78	\$ 406.64
				<hr/>	







## ACCOUNTS PAYABLE.

OSAGE COAL AND MINING CO., Co. D. M. Wisdom U.S. Indian Agent Dr.  
 Address Union Agency Muskogee, I.T.  
 Date Voucher made March 20, 1899 Account Choctaw & Chickasaw Nations.

Date Liability Incurred.

Feby. 1899 FOR and in full for royalty due the United States, account of the Choctaw and Chickasaw Nations on coal mined by the Osage Coal and Mining Co. during the month of Feby. 1899, as directed by the Interior Department Washington D.C. under an amendment issued Jany. 6, 1899, effective Jany. 1, 1899 to rules and regulations governing Mineral Leases, approved Nov. 4, 1898.

Said royalties as provided therein, being paid through the Indian Agent in charge of the Union Agency, under circular instructions issued by the Interior Department dated July 21, 1898.

Choctaw Nation

Mine No. 5	4404.00	Tons @ 7½	\$330.30	
Mine No. 10	1088.00	" " 7½	81.60	
Mine No. 11	8827.00	" " 7½	662.01	
Mine D.&S.	2421.00	" " 7½	<u>181.59</u>	\$1255.50

Chickasaw Nation

Mine No. 5	4404.00	Tons @ 2½	\$110.10	
Mine No. 10	1088.00	" " 2½	27.20	
Mine No. 11	8827.00	" " 2½	220.67	
Mine D.&S.	2421.00	" " 2½	<u>60.53</u>	\$ 418.50
				<u>\$1674.00</u>

STATE OF MISSOURI,  
 City of St. Louis--ss.



R.M.McDOWELL, being duly sworn according to the law, doth depose and say that he is Vice-President and General Manager of the Osage Coal and Mining Co.; that the foregoing is a true copy of an original account received during the month of February 1899, from T.W.Clelland Cashier of the Osage Coal and Mining Co., Krebs,I.T. that it has been examined and found to be correct to the best of his knowledge and belief.

R.M.McDowell.

Subscribed and sworn to before me, this 21st day of March 1899.

My commission expires Sept.2,1900.

Henry G.Herbel.

Notary Public, City of St.Louis.

I CERTIFY, that the above is a true copy of an original account rendered by T.W.Clelland, Cashier duly authorized and approved for payment by R.M.McDOWELL, General Manager; that the same has been examined by me and found correct; that it has been duly registered and filed in General Auditor's Office.

S.B.Schmzler General Auditor.

By A.Furmiss.

Received, of OSAGE COAL AND MINING CO. \*\*Sixteen hundred and seventy four Dollars, in full of above account.

(Endorsed) Union agency No.263 Accounts Payable OSAGE COAL AND MINING CO. DISBURSEMENT VOUCHER. amount \$1674.00----Received at office of U.S.Indian Agent, Muscogee, Ind. Ter. Mar. 24, 1899.----



31

DEPARTMENT OF THE INTERIOR.  
Washington.

March 21, 1899.

J. George Wright,  
U. S. Indian Inspector for the I. T.  
Muscogee, I. T.

Sir:

I am in receipt of your communication of the 9th instant, addressed to the Director of the U. S. Geological Survey, requesting that six maps of the Indian Territory, compiled under the direction of Charles H. Fitch, be mailed to you for use in your office, the office of the U. S. Indian Agent and the Mining Trustees of the Choctaw and Chickasaw Nations. You are advised that your said communication has been referred to the Director with a request that he forward said maps as soon as practicable.

Respectfully,

Tho. R. Ryan.

Acting Secretary.

Ind. Ter. Div.  
707-1899.  
Through Commission of Indian Affairs.

(Endorsed) Union Agency # 63, received Mar. 27, 1899, office of U. S. Indian Inspector, for I. T. Washington, "March 21, 1899. Secretary. Has requested that maps of Territory be furnished.



32

Department of the Interior,  
OFFICE OF INDIAN AFFAIRS,

Washington, March 23, 1899.

The Honorable

The Secretary of the Interior.

Sir;

Enclosed herewith is a report of Inspector Wright, who quotes from a letter received by him from the Choctaw and Chickasaw mineral trustees, in which they ask that the townsite commissioners be instructed to reserve sufficient lands for the use of mining companies at places where there are no towns, and that it is important that they shall have lands reserved for them sufficient for the houses of their miners and other employes, and for buildings, &c.

Inspector Wright, very properly I think, is of the opinion that beside the fact of there being no law for reserving any lands by the townsite commissioners, excepting within the limits of towns the lessees of mineral tracts are assured of the use of a sufficient quantity of land for all purposes, such as the erection of buildings, &c. It is, therefore, recommended that the Inspector be advised that the townsite commissioners will not be given instructions to set aside any lands for use of mining companies, except where such lands may be located in a town, which they will be authorized under their instructions to survey, plat and appraise.

Very respectfully,

Your obedient servant,

A.C. Tonner,

Acting Commissioner.

K.S.M. (G)



-2-

(Endorsed) Union Agency Number 80 Received Apr 1, 1899 Office of U.S. Indian Inspector for Indian Territory. Washington March 27, 1899. Secretary----Relative to setting aside of lands for use of coal operators.



DEPARTMENT OF THE INTERIOR,  
Office of Indian Affairs,  
Washington, March 23, 1899.

The Honorable

The Secretary of the Interior.

Sir:

Enclosed herewith is a report of March 15, 1899, from Inspector Wright, transmitting copy of correspondence had by him with the mineral trustees of the Choctaw and Chickasaw Nations, in which said trustees desire to obtain authority to maintain two separate offices. The Inspector does not approve of the plan, but submits it for the consideration of the Department.

The office agrees fully with Inspector Wright, and is of the opinion that the trustees should not only maintain a joint office, but that they should each be required to live at the place where their joint office may be, and where they may be found, or communicated with, by parties desiring to deal with or consult them with regard to their duties.

I believe further that these trustees should be required to act jointly in every matter on which any action is necessary for them to take. By this I do not think that the Choctaw mineral trustee should give his opinion with respect to a matter to a person applying for it, without consulting his colleague, and that the Chickasaw mineral trustee should likewise be required to consult his colleague before giving an opinion or taking action on any matter about which the trustees must act.



In other words, the Choctaw and Chickasaw mineral trustees cannot act separately on anything, the law making it necessary for them to act jointly in the making of leases.

I therefore recommend that the Department instruct Inspector Wright to advise these gentlemen that the Department would not permit them to maintain separate offices.

Very respectfully,

Your obedient servant,

A.C.Tonner,

Acting Commissioner.

K.S.M.(G)



March 24, 1899.

Honorable Tams Bixby

Acting Chairman of the Commission

Sir:

The Department is in receipt of your communication (through the Office of Indian Affairs), of the 10th instant, relative to citizenship cases in the Choctaw and Chickasaw Tribes of Indians in the Indian Territory.

You state that:

"In the examination by the Commission to the Five Civilized Tribes of Choctaw and Chickasaw Citizenship cases on appeal in the United States Courts, only questions of who were parties to the suits, and the regularity of Court proceedings, were inquired into and reported upon to the Judge. This investigation, not yet completed, has already saved to the Nations over one million dollars' worth of property."

You further invite the attention of the Department to the fact that "the amount of work which devolved upon the attorneys for the Choctaw and Chickasaw Nations under the act of June 10, 1896, (29 Stat., 321-339), within the narrow limit of time allowed by said act, was tremendous"; that a large number of Attorneys (300) represented the individual applicants, and labored diligently to get evidence "to prove the rights of citizenship of individual clients" while only "one legal firm" represented each Nation, and said firms had only time to prepare and file answers of general denial. You also state that "it is alleged and generally believed that many of the Committeemen employed by said Nations, through ulterior motives, advised against appealing certain cases from the Commission and neglected or hindered a procurement of evidence in other cases after appeals had been taken"; that said attorneys for the Nations did not



Hon. Tams Bixby--2--

have sufficient funds to procure testimony, and that,

"largely because of the failure to present testimony, or to probe the facts for the disclosure of fraud, the courts admitted over twenty-five hundred people to Choctaw and Chickasaw citizenship, and awarded them a pro rata share of the lands and funds of the tribe",

of which not one tenth, in your judgment, are justly entitled thereto. It is further stated that less than one fourth of the cases have been appealed to the U. S. Supreme Court, "and in these cases the Nations cannot rely for relief on the evidence in the records."

Certain instances are cited by you wherein members of the same family, "full brothers and sisters," have been admitted to citizenship, some in the Choctaw Nation and others in the Chickasaw Nation; and you say: "The atmosphere about all citizenship matters is redolent with the odor of corruption. Charges of fraud and bribery are heard on every hand. It is openly asserted that testimony to support applications for citizenship was furnished at a given price per case. Certain persons, because of the number of cases in which their depositions appear, might well be styled "professional citizenship witnesses."

Regret is also expressed by you "that Congress, in providing for this mass of litigation, did not also provide that the United States, as "guardian of the Indian," be made a party to the suits and be represented by counsel in each case"; and you suggest as a partial remedy "that the Department detail a special attorney, whose duty it shall be to inquire into the evidence, and where sufficient proof of fraud can be obtained bring suits on behalf of the Nations to set aside the judgments of the Courts."

The Commissioner of Indian Affairs, in transmitting your said communication, states that he "recognizes the extreme probability of the admission of persons to citizenship in these Nations on account of fraudulent testimony, but it cannot see how the Department can reach the matter. Section 189 of the Revised Statutes prohibits heads of departments from employing attorneys or counsel at the expense of the United States, and directs that when such attorneys or counsel are needed the heads of departments shall call upon the Department of Justice, the officers of which will attend to the same.



Hon. Tams Bixby --3--

"Under this statute, it would be impossible for this Department to appoint a special attorney for the purpose set forth in Mr. Bixby's letter, and on account of the volume of work which it is shown would be necessary for the purpose of investigating and instituting these proceedings, the office hesitates to recommend that any request be submitted to the Department of Justice in the premises. The Nations unquestionably have paid good salaries to attorneys employed by them in these citizenship cases, and the authorities of the Nations have been in a position to be as well informed as to the subject as the Dawes Commission. If their attorneys have neglected their duties, the Nations are at fault in continuing them in their employ. They are also at fault in permitting the continuance in office of committeemen who not only failed to perform their duties, but who appear from what Mr. Bixby says to have connived for corrupt purposes at the defeat of the Nations in their defense of these cases."

The condition of affairs portrayed in your said communication is, if true, indeed lamentable, but it is not apparent how this Department can interfere in the manner suggested. While it is true that the relation of the United States to the Indians is that of a guardian towards its ward, yet it is just as much the duty of the government to see that the humblest individual is protected in his right as a member of the tribe, as it is to protect the public domain of the tribe and the tribal funds. On December 10th last the Department requested the Honorable Attorney General of the United States to intervene to sustain the constitutionality of the Act of Congress approved June 28, 1898, (30" Stat., 495), and other legislation involved in the citizenship cases, pending an appeal in the U. S. Supreme Court. The agreement set out in section 29 of said Act of Congress approved June 28, 1898, continues the tribal governments of the Choctaw and Chickasaw Nations for a period of eight years, and said Nations are fully authorized to take such steps as seem proper to the tribal authorities thereof, to prevent the admission to citizenship in said Nations of improper persons, who have no legal claim thereto. If it be true, as stated by you,



that the courts have admitted persons to citizenship in said Nations erroneously, "largely because of the failure to present testimony, or to probe the facts for the disclosure of fraud," no relief would be given by the courts after the final adjournment of the court at the term in which such parties were admitted to citizenship. In the case of Phillips versus Negley, (117 U. S., p. 665-672), Mr. Justice Matthews, speaking for the court, quotes from the opinion delivered by Mr. Justice Miller in the case of Bronson versus Schulten, (104 U. S., 410-415), in which he said:

"In this country all courts have terms and vacations. The time of the commencement of every term, if there be half a dozen a year, is fixed by statute, and the end of it by the final adjournment of the court for that term. This is the case with regard to all the courts of the United States, and if there be exceptions in the State courts they are unimportant. It is a general rule of the law that all the judgments, decrees, or other orders of the courts, however conclusive in their character, are under the control of the court which pronounces them, during the term at which they are rendered or entered of record, and they may then be set aside, vacated, modified or annulled by that court. But it is a rule equally well established that, after the term has ended, all final judgments and decrees of the court pass beyond its control, unless steps be taken during that term, by motion or otherwise, to set aside, modify or correct them; and if errors exist, they can only be corrected by a court which, by law, can review the decision. So strongly has this principle been upheld by this court that, while realizing that there is no court which can review its decisions, it has invariably refused all applications for rehearing made after the adjournment of the court for the term at which the judgment was rendered. And this is placed upon the ground that the case has passed beyond the control of the court."

In the case of the United States versus Throckmorton, (98 U. S., 61-68), The Supreme Court, speaking through Mr. Justice Miller, after an elaborate review of the case, said:

We think these decisions establish the doctrine on which we decide the present case; namely, that the acts for which a court of equity will on account of fraud set aside or annul a judgment or decree, between the same parties, rendered by a court of competent jurisdiction, have relation to frauds, extrinsic or collateral, to the matter tried by the first court,



and not to a fraud in the matter on which the decree was rendered.

"That the mischief of retrying every case in which the judgment or decree rendered on false testimony, given by perjured witnesses, or on contracts or documents whose genuineness or validity was in issue, and which are afterwards ascertained to be forged or fraudulent, would be greater, by reason of the endless nature of the strife than any compensation arising from doing justice in individual cases."

Moreover, in the opinion of the Assistant Attorney General, dated the 17th instant, upon certain questions submitted to him relative to "citizenship in the Five Civilized Tribes," concerning the supervisory authority of the Secretary under the provision in said Act of Congress of June 28, 1898, declaring that "The rule so made, when approved by the Secretary of the Interior, shall be final," he held:

"This approval being required to give the quality or finality to the rolls, it follows necessarily that the Secretary of the Interior is clothed with some legal discretion and authority in granting or withholding his approval, and that he has a power of supervision and review over the action of the Commission in preparing the rolls. This power of supervision and review extends to everything done by the Commission in the way of placing names upon, or withholding names from, the rolls, which depends for its final sanction and effect upon the approval of the rolls by the Secretary of the Interior, but it does not include or authorize a re-examination of a decision of the Commission, from which an appeal to the court was provided for, and which, therefore, became final in the absence of such an appeal; nor does it include or authorize a re-examination of a decision of the court upon such an appeal."

Said opinion of the Assistant Attorney General has been approved by the Department.

With reference to the suggestion by you concerning the allegation of fraud on the part of applicants for citizenship and committeemen of said Nations, it is to be observed that fraud is never to be presumed, but in every case must be clearly proven. Said Act of June 28, 1898, provides for the prosecution and punishment of officials proven guilty of "embezzlement, bribery and embracery," and declares that the word "officer", when the same appears in the criminal laws heretofore extended over and



Hon. Tams Bixby--6--

put in force in said Territory, shall include all officers of the several tribes or Nations of Indians in said Territory, and this provision is substantially contained in said agreement with said Nations, wherein the U. S. Courts in the Indian Territory, are given jurisdiction to try "all persons charged with homicide, embezzlement, bribery, embracery, breaches or disturbances of the peace, and carrying weapons, hereafter committed in the Territory of said tribes."

If, therefore, the charges of fraud and bribery which you say "are heard on every hand" are made in good faith, the particular parties alleged to be guilty of said offenses should be prosecuted vigorously in the United States Courts and the attention of the U. S. District Attorney should be called to such cases. To this end, all officers of the government and private citizens should lend their best efforts to secure a rigid enforcement of the law, and it is believed that if this be done the charges of fraud and bribery in the future will either disappear or be heard at rare intervals. A copy of the report of the Commissioner of Indian Affairs is inclosed herewith.

Respectfully,

Thos. R. Ryan.

Acting Secretary.

Ind. Ter. Div.  
893-1899.  
1 inclosure.



42

D E P A R T M E N T O F T H E I N T E R I O R,  
Washington.

March 27, 1899.

J. George Wright  
U.S. Indian Inspector  
for the Indian Territory.  
Muscogee, Indian Territory.

Sir;-  
The Department is in receipt of your letter of the 15th instant, relative to the setting aside of lands for coal and asphalt operators for offices and miners' houses, etc., in which you express the opinion that it is not necessary that an additional quantity of land be set aside as requested by the Mineral Trustees of the Choctaw and Chickasaw Nations.

The Commissioner of Indian Affairs, in forwarding your said letter recommends that you be advised;

"That the town site commissioners will not be given instructions to set aside any lands for use of mining companies except where such lands may be located in a town, which they will be authorized under their instructions to survey, plat and appraise."

The recommendation of the Commissioner is approved and a copy thereof forwarded for your information.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind. Ter. Div.  
749-1899  
1 inclosure.

Through the Commissioner  
of Indian Affairs.



43

DEPARTMENT OF THE INTERIOR.  
Washington.

March 27, 1899.

J. George Wright,  
U. S. Indian Inspector  
for Indian Territory,  
Muscogee, Indian Territory.

Sir:

The Department is in receipt of your communication of the 15th instant, submitting copy of a letter of the 10th instant from the Mineral Trustees of the Choctaw and Chickasaw Nations, relative to the establishment of two separate offices (one for each Trustee), stating that they desire that all leases be made in quintuplicate in order that they may each individually have a copy; that they live ninety miles apart, and can not establish a general office as headquarters for files and records without great inconvenience and expense.

You also inclose a copy of your reply to said letter advising them that it would be impracticable to accede to their said request. You further inclose the replies of said Trustees to your communication, in which, among other things, they state that they feel that their governments would be better satisfied if each Trustee has a full and complete record.

You state that you do not approve of their having two separate offices, which has already led to confusion, and you express the opinion that "the Trustees should, if necessary, change their place of residence in order that they could act and have an office together," and you further quote from the instructions given said Trustees on December 3, last, as follows:



44

"You will at all times, unless otherwise instructed, make your visits, inspections or investigations together, and submit all reports signed by both--unless in case of disagreement, when you will make full separate reports."

In addition you also state:

"That certain recent developments of acts or neglect on their part in regard to examination of applications for leases, seriously embarrasses this office,"

and which will be submitted for the consideration of the Department at a later date, "makes it absolutely necessary that they be required to, in all instances, act jointly and together in order that both may be held accountable for their joint official acts."

In transmitting your said communication the Indian Office states that it agrees fully with you, and that one of said Trustees should not "give his opinion with respect to a matter to a person applying for it without consulting his colleague," and that the Mineral Trustees should not "act separately on anything, the law making it necessary for them to act jointly in the matter of leases."

There can be no question that under the agreement set out in section 29 of the Act of Congress approved June 28, 1898, and the regulations of the Department thereunder, it is contemplated that said Mineral Trustees shall act jointly in the premises, and that it is inexpedient and impracticable for them to have separate offices.

Your recommendation, concurred in by the Commissioner of Indian Affairs, is, therefore, approved by the Department, and a copy of the report of the Commissioner is herewith returned.

With reference to the irregularities mentioned in your communication it is considered advisable that you advise said Trustees, if you have not already done so, when they may make such



explanations as seem to them proper in the premises, and you will report the same to the Department in the usual way.

Respectfully,

Thos. R. Ryan  
Acting Secretary,

Ind. Ter. Div.  
750-1899  
1 Inclosure.

Through the Commissioner  
of Indian Affairs.

(Endorsed) Union Agency # 79, Received Apr. 1, 1899, Office of U. S. Indian Inspector for Indian Territory. Washington, March 27, 1899. Secretary. Mineral Trustees Choctaw & Chickasaw Nations must act jointly.



FRISCO LINE

ST. LOUIS AND SAN FRANCISCO RAILROAD CO.

To Dew. M. Wisdom

1899. Indian Agent, Union Agency, Muskogee, I.T.

April 7 For royalty due the Choctaw and Chickasaw Nations for rock removed from Jack Fork Quarry during month of March 1899

981 cars @ 10¢ \$ 98.10

APPROVED:

T.M Bisber  
Supt. T.B. & B.

Division	Account No.	Amount
Texas	86	98.10

From the St. LOUIS AND SAN FRANCISCO RAILROAD CO.,  
Ninety eight and 10/100 Dollars.

(Endorsed) Union Agency No. 69 RECEIPT OF Dew. M. Wisdom, Indian Agent, Union Agency Muskogee, I.T. \$98.10 Sworn and subscribed before me this 13th day of April 1899. My commission expires July 12th 1901. P.H. Martin-Notary Public, Springfield, Mo.  
April 12th, 1899----



ACCOUNTS PAYABLE.

4/17/99

ATOKA COAL AND MINING CO., Co- L.M.Wisdom U.S.Indian Agent Dr.  
 Union, Agency Muskogee, I.T.

Date Voucher made-April 15, 1899. Account Choctaw and Chickasaw Nations.

Date Liability Incurred.

Mch. 1899

For--and in full for royalty due the United State account of the Choctaw and Chickasaw Nations on coal mined by the Atoka Coal and Mining Co. during the month of March 1899, as directed by the Interior Department, Washington, D.C. under an amendment issued Jan. 6, 1899, effective Jany. 1, 1899, to rules and regulations governing Mineral Leases &c. approved Nov. 4, 1898. Said royalties as provided therein being paid through the Indian Agent in charge of the Union Agency under circular instructions issued by the Interior Department dated July 21, 1898.

Choctaw Nation

Mine No. 6	1144.60	Tons	7 $\frac{1}{2}$	\$85.84	
" D. & S	4037.40	"	"	302.80	
					388.64

Chickasaw Nation

Mine No. 6	1144.60	Tons	2 $\frac{1}{2}$	\$28.62	
Mine D. & S.	4037.40	"	"	100.94	
					129.56

\$518.20

STATE OF MISSOURI,--  
 City of St. Louis--- SS.

R.M. McDowell, being duly sworn according to the law, doth depose and say that he is Vice-President and General Manager of the Atoka Coal and Mining Co.; that the foregoing is a true copy of an original account received during the month of March 1899, from J.S. Cameron Cashier of the Atoka Coal and Mining Co., Lehigh, I.T.; that it has been examined and found to be correct to the best of his knowledge and belief.

R.M. McDowell.

Subscribed and sworn to before me, this 17th day of April 1899.

My commission expires Sept. 2, 1900

Henry G. Herbel.

Notary Public, City of  
 St. Louis.

I CERTIFY, that the above is a true copy of an original account, rendered by J.S. Cameron, Cashier, duly authorized and approved for



payment by R.M.McDOWELL, General Manager; that the same has been examined by me and found correct; that it has been duly registered and filed in General Auditor's Office

S.B.Schmzler-  
General Auditor.

RECEIVED-----189---, of ATOKA COAL AND MINING CO.

Five hundred eighteen and----- $\frac{20}{100}$  Dollars, in full of above account.

(Endorsed) Union Agency No.65--Accounts payable ATOKA COAL AND MINING CO. DISBURSEMENT VOUCHER.---Record No.28 \$518.20 Receipt of D.M.Wisdom,U.S.Indian Agt.Address Union Agency,Muskogee,I.T. For/c Choctaw and Chickasaw Nations, month of March 1899----



## ACCOUNTS PAYABLE

OSAGE COAL AND MINING CO. Co. D.M.Wisdom U.S.Indian Agent Dr.  
 Union Agency, Muskogee, I.T.  
 Address  
 Account Choctaw & Chickasaw Na.

March 1899

For and in full for royalty due the United States, account of the Choctaw and Chickasaw Nations, on coal mined by the Osage Coal and Mining Co. during the month of March 1899, as directed by the Interior Department, Washington D.C. under an amendment issued Jany.6th, 1899, effective Jany.1st, 1899, to rule and regulations governing mineral leases &c. approved Nov.4th, 1898 Said royalties as provided therein being paid through the Indian Agent in charge of the Union Agency under circular instructions issued by the Interior Department, dated July 21st, 1898.

Choctaw Nation

Mine No.5	30.23	Tons @ 71/2	\$226.74	
" " 10	8.37	" 71/2	62.76	
" " 11	79.54	" 71/2	596.56	
" D.&.S.	6.95	" 71/2	52.12	\$938.18

Chickasaw Nation

Mine No.5	30.23	Tons @ 21/2	\$ 75.58	
" " 10	8.37	" "	20.92	
" " 11	79.54	" "	198.85	
" D.&.S.	6.95	" "	17.37	\$312.72

\$1250.90

STATE OF MISSOURI,-

ss.

City of St.Louis-

R.M.McDowell, being duly sworn according to the law, doth depose and say that he is Vice-



President and General Manager of the Osage Coal and Mining Co.; that the foregoing is a true copy of an original account received during the month of March 1899, from T.W.Clelland Cashier of the Osage Coal and Mining Co., Krebs, I.T.; that it has been examined and found to be correct to the best of his knowledge and belief.

R.M.McDowell.

Subscribed and sworn to before me, this 17th day of April 1899. My commission expires Sept.2,1900.

Henry G. Corbel.  
Notary Public, City of St. Louis.

I CERTIFY, that the above is a true copy of an original account rendered by T.W.Clelland, Cashier, duly authorized and approved for payment by R.M.McDOWELL, General Manager; that the same has been examined by me and found correct; that it has been duly registered and filed in General Auditor's Office.

S.B.Schmzler-General Auditor

By A.Fenmiss.

RECEIVED-----189-, of OSAGE COAL AND MINING CO.

Twelve hundred fifty and-----90/100 dollars, in full of above acct.

(Endorsed) Union Agency No.66 ACCOUNTS PAYABLE--OSAGE COAL AND MINING CO. Disbursement Voucher Record No.49 amount \$1250.90 Receipt of D.M.Wisdom, U.S. Indian Agent Address Union Agency, Muskogee, I.T. For a/c Choctaw & Chickasaw Nation Month of March 1899.-----



CHOCTAW OKLAHOMA & GULF R.R. CO.

Mining Department.  
 Department No. 22  
 April 1899.

To Dew M. Wisdom U.S.I.A. Dr.  
 For use of Choctaw & Chickasaw  
 Nations, Muskogee, I.T.

FOR Royalty on coal mined during April 1899 as below at  
 10¢ per ton

7218.12	Tons	Hartshorne from leases	15,168.17	721.86
4608.15	"	Gowen	118.12	460.87
3518.18	"	Alderson	23.04	<u>351.89</u>
				1534 .62

Choctaw Nation	\$1150.97
Chickasaw "	<u>383.65</u>

(Quadruplicate)

\$1534.62



Union Agency,  
Muscogee, I.T. May 2nd, 1899.

Mr. J. E. Arnold,  
South McAlester, I.T.

Dear Sir:-

Your letter of April 8th directed to the Commissioner of Indian Affairs, Washington, D.C., has been referred to me by the Department for answer.

Section 30 of the Treaty of 1866 made between the Choctaws and Chickasaws and the United States, seems to provide for the incorporation into said tribes, of 10,000 Indians, known by the general name of the "Kansas Indians", being Indians to the north of Indian Territory. In said treaty there were certain rules and regulations ingrafted as to allotment of lands, and after said allotment, the Indians were to hold their lands in severalty and it was provided in these rules and regulations, substantially, that the Kansas Indians should have the same rights and privileges as the Choctaws and Chickasaws, except the right to participate in their annuities and other moneys. But these rules and regulations were never carried out by the Choctaws and Chickasaws; in other words, they did not allot their lands according to the provisions of said treaty of 1866, and hence it seems to me that by their failure to carry out said rules and regulations, the Kansas Indians now have no right to any participation whatever in either the lands or moneys of either the Choctaws or Chickasaws, and for this reason I do not think they can take allotments at this time in the said nations.



The allotment of lands which is now going on under the agreement between the Choctaws and Chickasaws and the Dawes Commission, in effect repeals the treaties of 1866 and renders its provisions as applicable to the Kansas Indians, nugatory and void, and therefore if you expect allotment at the present time, you must come under the terms of the present agreement as above stated.

Very respectfully,  
D.M.Wisdom,  
U.S.Indian Agent.

Approved;

U.S.Indian Inspector.



## ACCOUNTS PAYABLE

ATOKA COAL AND MINING CO., To D.M.Wisdom U.S.Ind.Agent Dr.  
Address Union Agency, Muskogee, I.T.  
Acct. Choctaw and Chickasaw Nations.

Date Voucher made May 13, 1899.

Date Liability Incurred.

April 1899.

FOR and in full for royalty due the United States for account of the Choctaw and Chickasaw Nations on coal mined by the Atoka Coal and Mining Company during the month of April 1899, as directed by the Interior Department, Washington, D.C., under an amendment issued January 6, 1899, effective January 1, 1899, to rules and regulations governing Mineral Leases &c. approved Nov. 4, 1898,.

Said royalties as provided therein being paid through the Indian Agent in charge of the Union Agency, under circular instructions issued by the Interior Department, dated July 21, 1898, as follows.

Choctaw Nation

Mine No. 6.	2014.45	tons	@	7½	\$151.08
Mine D.&.S.	6004.60	"	"	7½	450.34 \$601.42

Chickasaw Nation

Mine No. 6	2014.45	tons	@	2½	\$ 50.36
Mine D.&.S.	6004.60	"	"	2½	150.11 \$200.47

\$801.89



State of Missouri,)
City of St.Louis. )-ss.

R.M.McDOWELL, being duly sworn according to the law, doth depose and say that he is Vice-President and General Manager of the Atoka Coal and Mining Co.; that the foregoing is a true copy of an original account received during the month of April 1899, from J.S.Cameron, Cashier of the Atoka Coal and Mining Co., Lehigh, I.T.; that it has been examined and found to be correct to the best of his knowledge and belief;

R.M.McDowell.

Subscribed and sworn to before me this 15th day of May, 1899.

My commission expires Sept. 2, 1900.

Henry G. Herbel.

Notary Public, City of St. Louis.

I CERTIFY, that the above is a true copy of an original account rendered by J.S.Cameron, Cashier, duly authorized and approved for payment by R.M.McDOWELL, General Manager; that the same has been examined by me and found correct; that it has been duly registered and filed in General Auditor's Office.

S.B.Schmzler General Auditor

By A.Furmiss.

RECEIVED, of ATOKA COAL AND MINING CO. Eight hundred one--and--89/100---Dollars, in full of above account.

(Endorsed) Union Agency No.101 Received May 24, 1899 Office of U.S. Indian Agent, Muscogee, Ind. Ter. ACCOUNTS PAYABLE-ATOKA COAL AND MINING CO. DISBURSEMENT VOUCHER. For Royalty, month of April-1899---amount \$801.89----



May 16, 1899.

This is to certify that the statement hereto attached is a complete statement of the amount of money due the Choctaw and Chickasaw Nations for permits collected by the Choctaw, Oklahoma & Gulf Railroad Company during the month of April 1899 and the same is true and correct to the best of my knowledge and belief.

Edwin Ludlow.

Subscribed and sworn to before me this 16 day of May 1899.

Ind. Ter. Cent. Dist. Geo. W. Walshe  
Notary Public.

My Commission expires Oct. 14, 1902.

(Endorsed) Union Agency No. 105 Received May 26, 1899 Office of U.S. Indian Agent, Muskogee, Ind. Ter. Audit No. 185 April 1899 CHOCTAW, OKLAHOMA & GULF RAILROAD CO. Mining Department. Amount \$1534.62 in favor of Dew M. Wisdom, U.S.I.A. For use of Choctaw and Chickasaw Nations, Muskogee, I.T.-----



## ACCOUNTS PAYABLE

OSAGE COAL AND MINING CO., To D.M.Wisdom, U.S. Indian Agent Dr.  
Address Union Agency, Muskogee, I.T.  
Acct. Choctaw & Chickasaw Nations.

Date Voucher made May 18, 1899.

Date Liability Incurred.

April 1899 FOR and in full for royalty on coal due the United States for account of the Choctaw and Chickasaw Nations, mined by the Osage Coal and Mining Co. during the month of April 1899 as directed by the Interior Department, Washington, D.C. under an amendment issued Jany. 6, 1899, effective Jan. 1, 1899 to rules and regulations governing Mineral Leases &c. approved Nov. 4, 1898.

Said royalties as provided therein being paid through the Indian Agent in charge of the Union Agency, under circular instructions issued by the Interior Department, dated July 21, 1898.

Choctaw Nation

Mine No. 5	3889	Tons	@	7½	\$291.67	
Mine No. 10	580	"	"	7½	43.50	
Mine No. 11	7899	"	"	7½	592.43	
Mine D.&.S.	938	"	"	7½	<u>70.35</u>	\$997.95

Chickasaw Nation

Mine No. 5	3889	"	"	2½	97.23	
Mine No. 10	580	"	"	2½	14.50	
Mine No. 11	7899	"	"	2½	197.47	
Mine D.&.S.	938	"	"	2½	<u>23.45</u>	\$332.65
						<u>\$1330.60</u>







89

Audit No. 110  
Month of May 1899.

Mining Department.  
Department No. 23.  
May 1899

CHOCTAW OKLAHOMA & GULF R.R. CO.

To J.B. air Schoenfeldt U.S.I.A. Dr.  
For use of Choctaw and Chickasaw  
Nations, Muskogee, I.T.

May 31

For Royalty on coal mined during May 1899  
as below @ 10¢ per ton

9701 7 Tons from leases 15, 16 & 17 Hartshorne, I.T.

\$970.13

5714 12 " " " 11 & 12 Gowen, I.T.

\$571.46

5483 9 " " " 2, 3 & 4 Alderson, I.T.

\$548.35

\$2089.94

Choctaw Nation \$1567.45

Chickasaw Nation 522.49

(triplicate)

\$2089.94

(Endorsed) Union Agency No. 16



S. 68

D E P A R T M E N T O F T H E I N T E R I O R .

Washington,                  June 3d, 1899.

The U. S. Indian Inspector,  
For the Indian Territory Division,

Sir:

The Department is in receipt of your communication of the 22d ultimo, transmitting the report of the mineral trustees for the Choctaw and Chickasaw nations for the four months commencing December 1, 1898, and ending March 31, 1899, as required by section 3 of the rules and regulations approved October 7th, 1898. Said reports are transmitted by you without comment, and are forwarded by the Acting Commissioner of Indian Affairs without any recommendation, presumably, for the reason that no action by the Department thereon is deemed necessary.

Said reports have been carefully considered. Your attention is directed to certain statement in said reports which deserve some comment. The Department notes with satisfaction that the trustees have "the utmost confidence in the Interior Department and all its officers". The amount of royalty from coal in the Choctaw Nation is estimated at \$100,000 for the present year, and that the amount will probably increase from year to year. It is further reported that not less than \$100,000 has been invested in works and refineries for the purpose of mining asphalt, and that quite a large amount of asphalt in its crude state has



61

already been shipped to Kansas City, Mo., for paving purposes.

The mineral trustees lay special emphasis upon the efforts of parties to obtain leases for purely speculative purposes, with no intention of operating the mine, but for the purpose of selling out to some "bona fide operator". All such applicants, the trustees say, they "have determined to turn down", and they claim that while anyone may make an application for a mineral lease who desires to do so, it is the duty of the trustees to "deny any application" when they "deem it to the best interests of the Nations" to do so. It is also stated that in the judgment of the trustees "the best interests of the Nations will be subserved by the building of more railroads" and they have determined to give a number of coal leases (28) to the Fort Smith and Western Railway, the Gainesville and McAllester (Sic) Railroad, and a road running from Sherman, Texas, to the asphalt beds of the Chickasaw Nation and touching at Coalgate the coal fields of the Choctaw Nation.

The desire on the part of the trustees to have leases executed by parties in good faith is commendable, but it must not be supposed that the mineral trustees have any authority "to turn down" any application. Their duties relative thereto are prescribed by the first paragraph of section 3 of said regulations, as follows:

"It shall be the duty of the trustees to receive applications from parties desiring to make leases of lands within the Choctaw and Chickasaw nations for the purpose of engaging in the mining of coal, asphalt, or other minerals, to examine said appli-



cations and transmit the same, with report of facts, to the United States Indian Inspector stationed in the Indian Territory, and on receipt of authority from him for that purpose to enter jointly into leases with all parties to whom the privilege of leasing lands in said nations for mining purposes shall be approved by him in such form as shall be prescribed by the Secretary of the Interior."

Said reports fail to show that the trustees have made an examination "at least once in every month" as required in the second paragraph of said section, and hereafter the trustees should comply strictly with the departmental regulations, even though said rule may give them, as they say, "no little trouble".

It is not an easy task to perform the duties imposed upon the trustees by law and the regulations of the Department, but an earnest and honest effort on the part of the trustees and the other officers will cause said difficulties to be greatly minimized if they do not entirely disappear. The Department expects the earnest co-operation of all officers and lessees in the leasing of mineral lands in the Choctaw and Chickasaw nations and the collection of all the royalties justly due therefrom.

Respectfully,

Tho. R. Ryan  
Acting Secretary.

Ind.Ter.Div.  
1564-1899.

Through the

Commissioner of Indian Affairs.

(Endorsed) Union Agency No. 193. Received Jun. 9, 1899. Office of U.S. Indian Inspector for Indian Territory. Washington, June 3, 1899. Secretary---Remarks on quarterly reports of Mineral Trustees.



6/8/99

63

MILBY & DOW COAL & MINING CO.,

Voucher No.145

To--D.M.Wisdom U.S.I.A. Dr.

Month of April 1899.

for use of Choctaw & Chickasaw Nations, Muskogee, I.T.

April 30

For 10¢ per ton royalty on 264.38 tons of coal from shaft no.9 in month of April 1899.

264.34

Choctaw Nation 220.26

Chickasaw Nation 44.08

264.34

Received of MILBY & DOW COAL & MINING CO.

the sum of Two hundred and sixty four 34/100---

dollars in full settlement of the above voucher.

(Endorsed) Union Agency No. 5 Received Jun.8,1899 Office of U.S. Indian Agent, Muskogee, Ind. Ter. COAL ROYALTY from MILBY & DOW COAL AND MINING CO. amount \$264.34----



Land.  
26,768-1899.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington,

June 13, 1899.

The Honorable

The Secretary of the Interior.

Sir:

Enclosed, herewith, is a report of June 6, 1899, from Inspector Wright, stating that numerous inquiries are being received by the mineral trustees of the Choctaw and Chickasaw nations and his office, concerning the leasing of lead, gold, silver and like metals in those nations, and asking that in order that intelligent action may be had concerning the rates of royalties, etc., he be advised whether the Department has any information or data on the subject, and if so, that he be furnished with the same.

Paragraph 5 of the regulations prescribed by the Department on October 7, 1898, governing mineral leases and other matters in the Choctaw Nation, provides a royalty on "all other minerals such as "gold, silver, iron, and the like, as follows, sampling charges to "be first deducted: On all net smelter returns of ore of fifty (\$50) dollars per ton and under, a royalty of ten (10) per cent; "on all net smelter returns of ore over fifty (\$50) dollars per ton "and less than one hundred and fifty (\$150) dollars per ton, a "royalty of fifteen (15) per cent; on all net smelter returns of "ore over one hundred and fifty (\$150)



dollars per ton and less than "three hundred (\$300) dollars per ton, a royalty of twenty (20) "per cent; and on all net smelter returns of ore over three hundred (\$300) dollars per ton, a royalty of twenty-five (25) per cent."

This office in preparing the draught of regulations which were adopted by the Department with slight modifications, and approved as above stated on October 7, 1898, to govern in this matter, took particular pains to make inquiry of persons acquainted with mining contracts for gold, silver, and such metals, and the royalties as fixed in the regulations above quoted were taken bodily from a contract in existence made with a mining company in the State of Colorado which had been loaned the office by an attorney in whose possession it was at the time. Not only the contract from which these rates of royalty were taken, but numerous contracts also in the possession of the same attorney provided for royalties just as is done in the regulations.

I do not understand what other information Inspector Wright or the mineral trustees may require. They cannot accept a lower rate of royalty than that fixed in the regulations, and it is not likely unless there be great competition over some special deposit that a bid would be made offering a greater rate of royalty.

The office has no other information on the subject that it could suggest to the Department for the guidance of the Inspector and the mineral trustees in the Choctaw and Chickasaw nations.

Very respectfully,  
Your obedient servant,



65-

-3-

(Endorsed) Union Agency No.211 Received Jun.20,1899 Office  
of U.S.Indian Inspector for Indian Territory. Washington,  
June 15, 1899. Secretary.-----Relative to royalty on lead,  
gold, etc.-----

(K.S.M.)

P.



June 14, 1899

This is to certify that the statement hereto attached is a complete statement of the amount of money due the Choctaw and Chickasaw Nations for royalty on coal mined by the Choctaw, Oklahoma & Gulf Railroad Company during the month of May 1899 and the same is true and correct to the best of my knowledge and belief.

Edwin Ludlow.

Supt. of Mines.

Subscribed and sworn to before me this 14 day of June 1899.

Geo. W. Walshe.

Notary Public.

My Commission expires Oct 14th, 1902.

(Endorsed) Union Agency No. 16 Received Jun. 23, 1899 Office of U.S. Indian Agent, Muskogee, Ind. Ter. Audit No. 110 Month May 1899. CHOCTAW, OKLAHOMA & GULF RAILROAD CO, Mining Department. amount \$2089.94. in favor of J. Blair Schoenfeldt, U.S.I.A. - for use of Choctaw and Chickasaw Nations, Muskogee, I.T. ----



Union Agency,

Muscogee, I.T., June 29th, 1899.

Col. Ben T. Duval,  
Ft. Smith, Ark.

Dear Sir:-

Your letter of the 6th instant in reference to the case of Felix LeFlore against Al Barling, has been received and upon examination of the papers I find a letter addressed to you by my predecessor, Col. D. M. Wisdom, in which he has practically rendered a decision in this case, to the effect that this office did not have jurisdiction over the controversy and that you might file a brief or authority to show him that he had jurisdiction and that when he received said brief and considered it he would then take such further action as the facts might warrant. I do not find a brief or reference to the case except the transcripts. However I find that the proceedings set forth in the transcript were had prior to the confirmation and ratification of the agreement between the Government of the United States by the Commission of the Five Civilized Tribes with a Commission representing the Choctaw and Chickasaw tribes of Indians, which in part declares:

"It is further agreed that the United States courts now existing or that may hereafter be created in the Indian Territory, shall have exclusive jurisdiction of all controversies growing out of the titles, ownership, occupation, possession or use of real estate, "etc.

And in view of the above clause, it would seem to me that the United States Courts acquired jurisdiction immediately after the agreement above alluded to was ratified and confirmed, over



68

all controversies in the Territory occupied by the Choctaw and Chickasaw tribes, wherein the title to real estate came in question, without reference to the status of parties are citizenship. I am, therefore, of the opinion that this office has no jurisdiction as to the parties or the subject matter between them.

The case is therefore dismissed before this office and all papers in the case herewith transmitted.

Very respectfully,

J.Blair Shoenfelt  
U.S. Indian Agent.

Approved:

J.Geo.Wright.

U.S.Indian Inspector

(Endorsed) Union Agency Press Book # 3, Letter # 306-7, Muskogee



69

DEPARTMENT OF THE INTERIOR.  
Washington.

June 30, 1899.

United States Indian Inspector  
for the Indian Territory.

Sir:

The Department is in receipt of a letter of June 28, 1899, from the Acting Commissioner of Indian Affairs, transmitting your report relative to how wide the pillar of coal should be between adjoining mines of two operators.

You submit the statements of different coal operators and the Mineral Trustees of the Choctaw and Chickasaw Nations, whose estimates of what the size should be vary from 60 feet to 100 feet. You also transmit a letter from the Mine Inspector for the Indian Territory, to said Trustees, in which he says such pillars should not be less than 200 feet. It is your opinion that this matter should be left to the United States Mine Inspector as the manner of operating mines is under his jurisdiction; that you should hesitate to recommend a pillar less in width than suggested by him.

The Acting Commissioner concurs with you that the matter should be left to the Mine Inspector, but states that should the Department consider that it is not a matter over which the Inspector should have supervision the office is of the opinion that 200 feet pillar be left as recommended by the Inspector.

Certainly, to a considerable extent, the Inspector has jurisdiction in such matters, and the Department agrees with your recommendation that the size of such pillars should not, ordinarily, be less than 200 feet.

Respectfully,

E. A. Hitchcock  
Secretary.

Ind. Ter. Div.  
1837-99.



United States Indian Inspector.

June 30, 1899.

(Endorsed) Union Agency #259, received Jul. 10, 1899. office of  
the Indian Inspector for Indian Territory. Washington, June 30, 1899.  
Secretary. Relative to size of pillar between coal mines.



71

D E P A R T M E N T O F T H E I N T E R I O R  
Office of Indian Affairs.  
Washington, July, 3, 1899.

J. George Wright, Esq.,

U. S. Indian Inspector,

Muscogee, Indian Territory.

Sir:

Referring to your several reports of May 27, 1899, transmitting twenty-eight indentures of lease for the purpose of mining coal between the San Bois Coal Company and the Mineral Trustees of the Choctaw and Chickasaw Nations, and the papers in the contest over the right to lease the tracts covered by leases numbered one, two and three, filed by the Kansas and Indian Territory Coal Mining Company, through its President, W. S. Nelson, there is enclosed herewith a report of even date to the Secretary of the Interior on the matter of the contest, in which your conclusion that the contesting company has no right to a lease as against the San Bois Coal Company, to whom the lease has been granted, is affirmed.

This copy of the report on this question is transmitted to you to be forwarded at once to Mr. E. J. Sherlock, the attorney for the contesting company, at No. 305 Hall Building, Kansas City, Missouri.

Very respectfully,

W. A. Jones

Commissioner.

C.S.M.(G)  
(Endorsed) Union Agency # 249, received Jul. 6, 1899. Office of U. S. Indian Inspector for Indian Territory. Washington, July 3, 1899. Commissioner. Encloses copy of decision in Nelson--Bond contest.



72

Union Agency,  
Muscogee, I.T. July 5th, 1899.

I.C. Burris,

Mineral Trustee,

Ardmore, I.T.

Sir:

Replying to your communication of the 3rd instant, I give below the amounts collected by me for the Choctaw and Chickasaw Nations on account of royalty arising from asphalt, coal, rock and stone collected during the quarters ending as stated:

Total amount collected for qtr ending Sept. 30, 1898	
For Choctaw Nation	\$2,402.21
For Chickasaw Nation	800.72

Total amount collected for qtr ending Dec. 31, 1898

For Choctaw Nation	30,866.49
For Chickasaw Nation	10,201.08

Total amount collected for qtr ending Mar. 31, 1899

For Choctaw Nation	37,125.30
For Chickasaw Nation	12,375.17

For fract qtr ending May 31, 1899

For Chickasaw Nation	2,553.477
For Choctaw Nation	7,660.41

For fract qtr ending June 30, 1899

For Choctaw Nation	2,628.01
For Chickasaw Nation	876.01

Very respectfully,

J.Blair Shoenfelt  
U.S.Indian Agent

Approved:

J.Geo.Wright  
U.S. Indian Inspector

(Endorsed) Union Agency Press Book # 3, Letter # 383-4, Muskogee



Union Agency,  
Muscogee, I.T. July 5th, 1899.

L. C. Burris,  
Mineral Trustee,  
Ardmore, I.T.

Sir:

Replying to your communication of the 3rd instant, I give below the amounts collected by me for the Choctaw and Chickasaw Nations on account of royalty arising from asphalt, coal, rock and stone collected during the quarters ending as stated.

Total amount collected for qtr ending Sept. 30, 1888

For Choctaw Nation \$2,402.21

For Chickasaw Nation 800.72

Total amount collected for qtr ending Dec. 31, 1898

For Choctaw Nation 30,866.49

For Chickasaw Nation 10,201.08

Total amount collected for qtr ending Mar. 31, 1899

For Choctaw Nation 37,125.30

For Chickasaw Nation 12,375.17

For fract qtr ending May 31, 1899

For Choctaw Nation 7,660.41

For Chickasaw Nation 2,553.47

For fract qtr ending June 30, 1899



For Choctaw Nation	\$ 2,628.01
For Chickasaw Nation	876.01

Very respectfully,  
 J.Blair Shoenfelt,  
 U.S.Indian Agent.

Approved:

J.Geo.Wright,  
 U.S.Indian Inspector.



75

F.

DEPARTMENT OF THE INTERIOR,

Washington.

October 2, 1899.

United States Indian Inspector  
for the Indian Territory,  
Muscogee, Indian Territory.

Sir:

The Department is in receipt of your communication of the 22nd ultimo, enclosing a copy of a letter addressed by the United States Indian Agent for the Union Agency, in the Indian Territory, to the Commissioner of Indian Affairs, relative to the time allowed purchasers of unimproved town lots in the Choctaw and Chickasaw Nations within which payment must be made on said lots purchased from the Townsite Commissions of the respective nations.

You call attention to the fact that the Commission for the Choctaw Nation required the first payment on an unimproved lot to be made to said Indian Agent within ten days after the sale thereof, and the Commission for the Chickasaw Nation required said payment to be made within sixty days after purchase of the lot.

Reference is made by you to that portion of the agreement set out in section 29 of the act of Congress approved June 28, 1898 (30 Stat., 495), on pages 15 and 16, in which, you state,

"that the owner of an improved lot has sixty days in which to decide whether or not he will purchase the same; and, if he does purchase it, or agrees to, then the law found on page 15 requires him to make the first payment in ten days after acceptance, but the law on page 16 permits him to default not to exceed



sixty days on 'any one payment' before he is subject to suffer forfeiture of all payments made 'and all rights under the contract'."

You further state that the provision in said agreement on page 16 requires that all lots not appraised (unimproved) shall be sold from time to time, "the purchase price to be paid in four installments as hereinbefore provided for improved lots"; that the second paragraph on said page reads:

"All the payments herein provided for shall be made under the direction of the Secretary of the Interior into the United States Treasury, a failure of sixty days to make any one payment to be a forfeiture of all payments made and all rights under the contract;"

and you express the opinion that the purchaser of an unimproved lot would not forfeit his rights until he has "defaulted sixty days from date of sale."

You ask to be advised as to the proper construction of said agreement, and that the Townsite Commissions to said nations may be duly advised thereof.

The Acting Commissioner of Indian Affairs, in forwarding your said communication, expresses the opinion that the true interpretation of said agreement is that a purchaser has but ten days to make the first payment on any lot, whether improved or unimproved; that in the case of improved lots the ten days would run from the date when the purchaser determined to buy the lot and gave notice thereof, but the decision to purchase must be reached and payment made thereon within sixty days from the



service of notice upon the party that the lot is for sale; that in case of unimproved lots the first payment must be made within ten days from the acceptance of the bid of the purchaser; that the forfeiture for failure to make any one payment within sixty days after the same becomes due, as set out in said agreement, only has reference to the deferred payments, as appears from the proviso therein, that the failure to make the payment within sixty days works "a forfeiture of all payments made and all rights under the contract."

The Acting Commissioner further reports that the Indian office has heretofore called the attention of the Chickasaw Commission to the fact that sixty days was given within which to make the first payment to all purchasers of unimproved lots, and instructed said Commission that the first payment should be made within ten days after the date of sale, and that they should so state in all future advertisements; that the Chairman of said Commission advised the Indian Office on September 15th last, that the error above specified was occasioned by a mistake in the printed form used by the Commission in writing out its advertisement, and that hereafter ten days would be inserted instead of sixty days.

The conclusions of the Acting Commissioner are concurred in by the Department, and a copy thereof is herewith enclosed for your information. The Commissioner of Indian Affairs has



this day been directed to instruct the Townsite Commissioners accordingly.

Respectfully,

Webster Davis

Acting Secretary.

Ind.Ter.Div.  
2814-1899.  
1 enclosure.

(Endorsed) Union Agency No. 357. Received Oct. 13, 1899. Office of U. S. Indian Inspector for Indian Territory. Department, Oct. 2, 1899, Secretary-\*-\*-\*Ruling rel. to payment on town lots - Choctaw & Chickasaw Nations.



DEPARTMENT OF THE INTERIOR,  
Washington,

March 15, 1900.

Honorable D. H. Johnston,  
Governor of the Chickasaw Nation,  
Tishomingo, Indian Territory.

Sir:

On September fifth last the Commission to the Five Civilized Tribes made an agreement with commissioners of the Choctaw and Chickasaw Nations in the matter of citizenship rolls of said nations and fixing a date for the closing of the same in order that allotments of lands of said nations may be duly made by said Commission, under the agreement set out in section 29 of the act of Congress approved June 28, 1898 (30 Stat., 495), which act was duly ratified by said nations on August 24, 1898.

The sixth paragraph of said agreement provides that "This agreement to be ratified by the General Council of the Choctaw Nation and the Legislature of the Chickasaw Nation, and by the Congress of the United States."

Said agreement was accepted by the Choctaw Nation in bill No. 49, entitled "An Act Accepting the Agreement submitted by the Special Commissioner," and was approved by the Principal Chief on October 31, 1899. A copy of said bill is enclosed herewith for your information.

It is exceedingly desirable, both for the interests of the



Indians and the United States, that the rolls of said nations be closed as provided in said agreement, and the Department does not understand why action has not been taken thereon by the Legislature of the Chickasaw Nation.

The Department expects prompt action to be taken thereon by you, and will not be satisfied if there be any further unnecessary delay on the part of the Chickasaw Nation in acting upon said agreement, as provided in said sixth paragraph.

You will also find enclosed herewith a duplicate of said agreement, and if the Chickasaw Nation already has a duplicate of said agreement you will please return the one enclosed herewith, with your reply.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

Ind. Ter. Div.  
2824, 3371-1899.  
2 enclosures.



DEPARTMENT OF THE INTERIOR,

Washington, June 5, 1900.

Chairman of Committee on Indian Affairs,  
House of Representatives.

Sir:

On December 28th last I had the honor to transmit to the Speaker of the House of Representatives copy of an agreement concluded by the Commission to the Five Civilized Tribes on behalf of the Government of the United States with a commission representing the Choctaw and Chickasaw Nations on September 5, 1899.

The preamble of said agreement refers to the provision contained in section 29 of the act of Congress approved June 28, 1898 (30 Stat., 495), relative to the allotment of lands to the citizens of said nations in severalty, and states the necessity for fixing a date when the rolls of citizens shall be closed in order that said allotment may be duly made. The agreement provides:

First, that no child born to any member of said nations after the 31st day of October, 1899, shall be enrolled as a Choctaw or Chickasaw citizen, and no person who intermarries with any member of either of said tribes after the date of said agreement shall be enrolled as an intermarried citizen of the Choctaw and Chickasaw Nations, with a proviso that all children



thereafter born to Choctaws and Chickasaws by blood on said roll shall have the benefit of the school fund provided for in said agreement contained in said section 29;

Second, that if any member of either of said tribes who is entitled to share in the allotment of lands and distribution of moneys and other tribal property of his tribe, shall die after the 31st day of October, 1899, and before the final allotment of lands and the distribution of moneys and other property of the tribe to which he belongs, the lands, moneys and other property to which such member would be entitled if living shall descend to his heirs according to the laws of descent and distribution of the State of Arkansas, and be allotted and distributed accordingly;

Third, that no child born to any Choctaw, or Chickasaw freedman after the 31st day of October, 1899, shall be enrolled as a Choctaw or Chickasaw freedman, and if any Choctaw or Chickasaw freedman, who is entitled to any part of the lands of the Choctaw and Chickasaw Nations, shall die after the said 31st day of October, the lands to which such freedman would be entitled, if living, shall descend to his heirs according to the laws of descent and distribution of the State of Arkansas; provided, that the terms of said agreement shall not be construed in any degree to add to or impair the rights of such freedman as against the Choctaw and Chickasaw tribe of Indians;

Fourth, that the rolls of the Choctaw and Chickasaw citizens



and all Choctaw and Chickasaw freedmen, made under the provisions of said section 29, shall constitute the final rolls of citizens of said tribes, and no name shall thereafter be added to said rolls, provided, that all persons entitled to be enrolled on said October 31st who were then living, shall be placed on said rolls;

Fifth, that the rights of Chickasaw freedmen so enrolled, founded upon article III of the treaty between the United States and the Choctaw and Chickasaw Nations concluded April 28, 1866 (14 Stat., 769), and the rights claimed and interest in tribal property by reason of intermarriage with citizens of the Choctaw and Chickasaw tribes in accordance with tribal laws prior to date of said agreement, whose names appear upon the rolls made and approved as aforesaid, may be determined by suit instituted in the Court of Claims of the United States by one or more of such claimants on behalf of all persons of like status, and if no such suit be instituted prior to the first day of April, 1900, the questions relative to the property rights of such intermarried persons and said freedmen shall be submitted by the Secretary of the Interior to said court for adjudication and determination, and said cause shall be advanced upon the docket and tried by the court as early as possible;

Sixth, that said agreement shall be ratified by the General Council of the Choctaw Nation and the Legislature of the Chickasaw



Nation and by the Congress of the United States.

In transmitting said agreement it was stated that it was necessary that the time should be fixed for the closing of the rolls of said nations, after which no name should be added thereto; that it was important that said agreement should be confirmed by Congress in order that the Commission to the Five Civilized Tribes may properly perform its duties required by law, and it was recommended that the agreement be confirmed by appropriate legislation.

The Choctaw Nation passed an act confirming said agreement, which was approved by its Principal Chief on October 31, 1899, but said act has not yet been received by the Department and transmitted to the President for executive action, under the provisions of said section 29.

The agreement was not confirmed by the Legislature of the Chickasaw Nation, and the Department is advised that the tribal authorities object to the provisions of said agreement.

On May 19, 1900, the Commission to the Five Civilized Tribes entered into another agreement with representatives of the Choctaw and Chickasaw Nations relative to the closing of the rolls of said nations and other matters. Said agreement was referred to the Commissioner of Indian Affairs for report and recommendation on the 24th ultimo, and on the 28th of the same month the acting Commissioner reported that the Indian Office had no objections to the provisions of section 1, 2 and 9 of said agreement.



The first section declares that no child born to any member of the Choctaw and Chickasaw tribes of Indian after the first day of May, 1901, shall be enrolled as a Choctaw or Chickasaw citizen, and no person who may intermarry with any member of either of said tribes after the ratification of said agreement shall be enrolled as an intermarried Choctaw or Chickasaw citizen, and the rolls of Choctaw and Chickasaw freedmen shall be closed and made as of May 1, 1901, with a proviso that all children born to Choctaws and Chickasaws by blood on such rolls, after May 1, 1901, shall have the benefit of the school fund provided for in the agreement between the United States and the Choctaws and Chickasaws, concluded on April 23, 1897.

Section 2 provides that upon the death of any person entitled to share in the distribution of the property of the Choctaw and Chickasaw tribes, after the first day of May, 1901, and before the final distribution of tribal property, the property of the tribe to which he would be entitled, if living, shall descend to his heirs according to the laws of the State of Arkansas.

Section 3 declares that the rolls of the Choctaw and Chickasaw citizens and the Choctaw and Chickasaw freedmen, made by the Commission to the Five Civilized Tribes under the provisions of the act of Congress approved June 28, 1898, and of said agreement, and approved by the Secretary of the Interior as provided in said act, shall constitute the final rolls of citizens of the



Choctaw and Chickasaw tribes, to which the name of no person shall thereafter be added.

Section 4 declares that no judgment or decree of the United States court in Indian Territory purporting to admit any person to citizenship in either the Choctaw or Chickasaw tribes of Indians, shall entitle such person to enrollment, allotment or distribution of any property belonging to said tribes, unless both tribes, or the members thereof interested, were duly served and made parties to the suit and judgment rendered against all parties in interest. It also declares that any original party to a suit regularly appealed under the act of Congress approved June 10, 1896 (29 Stat. L. 321), having such judgment in his favor and who resided within said tribes, or either of them, when original application was made according to said act, may, within thirty days after the ratification of said agreement, apply to the court by petition duly verified specifically setting forth the law and the facts upon which he relies, for a new trial, The Section further provides for the manner in which suits shall be prosecuted, and also for the right of appeal upon the law and testimony by either party, if aggrieved, within thirty days, to the United States Circuit Court of Appeals at St. Louis, giving to the causes appealed precedence in either of said courts over all other civil business, and requires the same to be advanced upon the docket and determined at earliest date possible



-7-

The section further declares that the Chief Executives of said nations shall in all things provide for proper defense in every such suit, and appropriations therefor shall be made as other regular and necessary expenses of the tribal governments.

Section 5 declares that the rights claimed by Chickasaw freedmen to an interest in tribal property shall be determined by suit in the United States Court of Claims, with right of appeal within sixty days to the Supreme Court of the United States, The section further prescribes the manner in which such suits shall be instituted and prosecuted.

Section 6 allows said tribes to bring a joint suit in the United States Court of Claims within sixty days after the ratification of said agreement against any person or class of persons to determine their right to participate in allotment, or the distribution of tribal property, with right of appeal within thirty days to the Supreme Court of the United States. It also prescribes that where suits are against individuals copies of the petitions shall be served on each adult, or upon the parent or guardian of a minor, and if against any class of persons it shall be sufficient to designate the class and the petition shall be published for four consecutive weeks in two newspapers of general circulation in each of said tribes, and such publication shall be deemed sufficient service. It requires answers to the petitions in every case to be filed within thirty days after service or last insertion of notice by publication.



Section 7 authorizes the Chief Executives of the nations to provide for the prosecution or defense of any suits brought in the Court of Claims in accordance with the preceding section, and requires the compensation of counsel to be fixed by the court rendering final judgment.

Section 8 declares that no suit authorized to be instituted under said agreement shall in any manner interfere with, or delay, the allotment of lands belonging to said tribes.

Section 9 provides for the ratification of said agreement by Congress of the United States and by the Choctaw and Chickasaw tribes by a vote of a majority of all the members of said tribes legally entitled to vote under the tribal laws, at an election to be held for that purpose. Said section further provides the manner of submitting said agreement to the voters and the way in which the result shall be made known.

There can be no question but that it is desirable that a certain fixed time shall be designated for the closing of the rolls of said nations, and there does not appear to be any serious objection to the provisions in said section 1. The proviso to section 1, relative to the distribution of the school fund appears to be in harmony with the clause in the agreement with said nations contained in section 29 of said act of June 28, 1898, which declares: "The revenues from coal and asphalt, or so much as shall be necessary, shall be used for the education of the children of Indian blood of the members of said tribes."



Nor does there appear to be any serious objection to the provision in section 2 of said agreement which prescribes the manner of the descent of the property of any person entitled to a share in the distribution of the tribal property of the Choctaw and Chickasaw Nations, who shall die after the first day of May, 1901, and before the final distribution of the tribal property.

The third section, which requires the rolls of the Choctaw and Chickasaw citizens and the Choctaw and Chickasaw freedmen to be made by the Commission to the Five Civilized Tribes in accordance with the provisions of said agreement, appears to be objectionable for the reason that some provisions of the agreement are not considered to be in harmony with the established rules of justice and equity.

Section 4 of said agreement, in my judgment, is exceedingly objectionable for the reason that it is an attempt to avoid and render of no effect judgments and decrees of the United States courts specified therein by an agreement to be enacted into law, in which agreement the parties in whose favor said judgments were rendered have not been consulted and have had no opportunity to show cause why any rights to which they may be entitled under said judgments shall not be taken from them.

I also concur in the conclusion of the Acting Commission relative to the objections stated to sections 6, 7 and 8 of said agreement.



Moreover, in my judgment, it is not necessary that any agreement be made with said nations in order to complete the rolls already authorized to be made under section 21 of said <sup>of</sup> act June 28, 1898. The agreement with the Choctaw and Chickasaw Nations set out in said section 29 of said act of June 28, which was ratified by said nations on August 24, 1898, expressly declares:

"That all the lands within the Indian Territory belonging to the Choctaw and Chickasaw Indians shall be allotted to the members of said tribes so as to give to each member of these tribes so far as possible a fair and equal share thereof, considering the character and fertility of the soil and the location and value of the lands."

In the Cases of Stephens et al. vs. The Cherokee Nation, The Choctaw Nation vs. F. R. Robinson, Jennie Johnson et al. vs. The Creek Nation, and The Chickasaw Nation vs. Richard C. Wiggs, (174 U.S., 445), the Supreme Court considered the legislation relative to the making of rolls of said nations by the Commission to the Five Civilized Tribes, and decided,

"That the constitutionality of these Acts in respect of the determination of citizenship cannot be successfully assailed on the ground of the impairment or destruction of vested rights. The lands and moneys of these tribes are public lands and public moneys and are not held in individual ownership, and the assertion by any particular applicant that his right therein is so vested as to preclude inquiry into his status involves a contradiction in terms."

The decision of the court makes special mention of the provisions of the act of June 28, 1898, and states that -

"The Act is comprehensive and sweeping in its character and \* \* gave jurisdiction to the United States courts in the Indian Territory in their respective districts to



try cases against those who claim to hold lands and tenements as members of the tribe, and whose membership was denied by the tribe, and authorizes their removal from the same if the claim was disallowed, and provided for the allotment of lands by the Dawes Commission among the citizens of any one of the tribes as shown by the roll of citizenship when fully completed as provided by law and according to a survey, also fully completed, and 'That if the person to whom an allotment shall have been made shall be declared, upon appeal as herein provided for, by any of the courts of the United States in or for the aforesaid Territory, to have been illegally accorded rights of citizenship, and for that or any other reason declared not to be entitled to any allotment, he shall be ousted and ejected from said lands.'

The opinion closes with the statement that "We hold entire legislation constitutional."

While no specific time is fixed for closing the rolls, and some question may arise as to the authority of the Secretary of the Interior to prescribe a time within which said Commission must complete the rolls, I feel confident that Congress has the power to authorize the Secretary of the Interior to prescribe a definite time for the closing of the rolls, after which no name shall be placed thereon.

Said act of June 28, 1898, did not require the assent of the tribal authorities to the provisions of said section, relative to the enrollment of citizens and freedmen of said tribes, Neither, in my judgment, is it necessary that the legislation providing for the closing of the rolls shall be submitted to the members of the Choctaw and Chickasaw Nations to be voted on, in order to render such legislation valid. If such action be necessary, then either of said nations can prevent the completion



of the work of making complete rolls of citizenship as required by said section 21 and of allotting the lands as expressly agreed to by said nations in the agreement in said section 29, which was duly ratified by said nations at an election held August 24, 1898.

Said section 21 contains a provision, that

"The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent."

In order to have rolls, when approved by the Secretary, "final", it would seem to be necessary that the last clause relative to descendants and intermarried persons should be stricken out.

I have, therefore, to recommend that said section 21 of said act of June 28, 1898, be amended by striking out in next to the last paragraph the words, "with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws," and adding after the word, "represent," in the last line thereof, the words, "and the Secretary of the Interior is authorized and directed to fix a time for closing said rolls, after which no name shall be added thereto," so that the paragraph as amended will read as follows:

"The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon shall alone constitute the several tribes which they represent, and the Secretary of the Interior is authorized and directed to fix a time for closing said rolls, after which no name shall be added thereto."



If said amendment be made it will obviate the necessity for any agreement and enable the Department to execute the provisions of existing law.

It may be remarked that on May 31, 1900, the Department transmitted draft of a bill providing for the determination in the Court of Claims of the rights of the Chickasaw freedmen to lands in the Chickasaw Nation, which, if enacted, will provide the remedy sought in section 5 of said agreement.

A copy of said agreement and a copy of the report of the Acting Commissioner are enclosed herewith.

Respectfully,

E. A. Hitchcock  
Secretary.

Ind.Ter.Div.  
1827-1900.  
2 enclosures.

(Endorsed) Union Agency No.838.Received.Jun.14,1900.Office of U.S. Indian Inspector for Indian Territory.Washington,June8, 1900. Secretary---Enclosing copy of letter from Secretary to Chairmen of House and Senate Committees on Indian Affairs.



94

DEPARTMENT OF THE INTERIOR,

Office of U.S. Indian Inspector,

For

Indian Territory,

Muscogee, Ind. T., July 19, 1900.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of the 10th instant, relative to the setting aside of parks in the Choctaw and Chickasaw Nations, I have the honor to enclose herewith a copy of a communication addressed by me under date of the 17th instant to the Townsite Commission for the Choctaw Nation, advising them relative to said Departmental letter. A similar letter was written the Chickasaw Commission.

I am now in receipt of a communication, under date of the 18th instant, from the Chairman of said Commission, relative to the reservation of a park in the town of South McAlester, and enclosing with said communication a letter from the Commissioner on the part of the Choctaw Nation, Mr. Smiser, wherein he states that he would not feel authorized to agree to the laying out of a park for that or any other town in the Choctaw Nation, without provision for full compensation for the ground so set aside, which two last letters are enclosed herewith for the information of the Department; and I would respectfully request that I be advised of the ruling of the Department as to whether or not, in the setting aside of parks in the Choctaw and Chickasaw Nations, they shall be paid for at the

--press book no. 4-letter 128.



rate of \$10 per acre, as provided in Section 15 of the Act of Congress approved June 23, 1898, or whether they shall be appraised and paid for by the towns at their full value.

Very respectfully,

Your obedient servant,

J. Geo. Wright,

U.S. Indian Inspector,

for the Indian Territory.



DEPARTMENT OF THE INTERIOR,

Office of U. S. Indian Inspector,

For

Indian Territory,

Muscogee, Ind. T., July 25, 1900.

The Honorable,

The Secretary of the Interior.

Sir:

In connection with the work of establishing the exterior limits of the various towns in the Choctaw and Chickasaw Nations, and surveying and platting the same as provided by recent legislation, I have the honor to state that as soon as the limits of two or three towns are established it is proposed to assign one or two surveying parties to the work of surveying and laying out such towns.

I understand that the recent instructions to the present town-site commissioners provided that surveyors at each of the towns should have two men at \$2.00 per day. The Supervising Engineer, in a report to me upon this subject, states that such a force does not constitute a surveying party,--that one man must be at the instrument all the time, the surveyor must be with the chainman to keep the notes of the work, and that in the absence of an axeman or flagman, the entire party must wait while one of their number sets a flag or drives a stake. He therefore states that each surveyor should be given five men; One transitman, at from \$3.00 to \$5.00 per day; two chainmen at from \$1.50 to \$3.00 per day; one flagman and one axeman or stake-driver at from \$1.25 to \$2.00 per day,--according to the experience and ability of the  
--press book no. 4.letter 147.



different men employed.

I have discussed this matter with the surveyors recently appointed, and they also state that such a force should be allowed in order to work to the best advantage.

I therefore respectfully recommend that such force be allowed each party, at not exceeding the compensation named, or at the lowest salaries for which competent men can be engaged, and that I be authorized to have chairman of the present Choctaw and Chickasaw townsite commissions engage such men in their respective nations, for such purpose, and to pay them themselves.

It is suggested that Mr. Leavitt, recently appointed townsite surveyor, be engaged as one of the transitmen, as he acknowledges his own inability to fill the position of surveyor and is willing to take any position offered, and it is my opinion that under proper supervision he will render satisfactory service as a transitman.

As it is expected soon to begin the work of surveying and platting one or more towns, I respectfully ask to be advised in reference to the force to be allowed as early as practicable.

Very respectfully,

Your obedient servant,

J.Geo.Wright,

U.S.Indian Inspector, for the I.T.



98

DEPARTMENT OF THE INTERIOR.  
Washington.

July 27, 1900.

United States Indian Inspector  
for the Indian Territory,  
Muscogee, Indian Territory.

Sir:

The Department is in receipt of your communication of the 10th instant, relative to the setting aside of parks in the Choctaw and Chickasaw Nations, and inclosing therewith a copy of a communication addressed by you on the 17th instant to the Townsite Commission for the Choctaw Nation advising them of the contents of said departmental letter, and stating that a similar letter was written to the Townsite Commission for the Chickasaw Nation.

You also report that you are in receipt of a communication dated the 18th instant from the Chairman of the Commission for the Choctaw Nation, relative to the reservation of a park in the town of South McAlester, and inclosing therewith a letter from the Commissioner on the part of the Choctaw Nation, Mr. Smiser, in which he states that he would not feel authorized to agree to the laying out of a park for that or any other town in the Choctaw Nation without provision for full compensation for the ground so set aside, and you request to be advised whether or not in the setting aside of parks in the Choctaw and Chickasaw Nations they shall be paid for at the rate of \$10 per acre, as provided in section 15 of the act of Congress approved June 28, 1898 (30 Stat., 495), or whether they shall be appraised and paid for by the towns at their full value.

The Commissioner of Indian Affairs in forwarding your said communication quotes the provision in section 15 referred to, namely:

"The inhabitants of any town may, within one year after the completion of the survey thereof, make such deposit of ten dollars per acre for parks, cemeteries, and other public grounds laid out



by said commission with like effect as for improved lots; and such parks and public grounds shall not be used for any purpose until such deposits are made."

He also states that inasmuch as there is no other provision fixing the compensation to be paid for said parks, they must necessarily be paid for by the inhabitants of such towns at the rate of ten dollars per acre, and he recommends that you be so advised.

The Department concurs in the recommendation of the Commissioner of Indian Affairs, and you are instructed to advise the several commissions accordingly.

The papers transmitted with your said communication, together with a copy of the report of the Commissioner, are returned herewith.

Respectfully,

Tho. R. Ryan

Acting Secretary.

Ind.Ter.Div.  
2469-1900.  
4 inclosures.

(Endorsed) Union Agency # 972 received Aug. 6, 1900, Department Office of Indian Inspector for I. T. Washington, July 27, 1900. Inhabitants of towns must pay for parks, at \$10. per acre.



100  
EXECUTIVE OFFICE, CHOCTAW NATION,

GREEN McCURTAIN,

Principal Chief.

Atoka, Ind.Ter.,

August 16, 1900.

Honorable Secretary of the Interior,

(Through Hon.J.Geo.Wright,  
United States Indian Inspector,  
located in the Indian Territory.)

Sir:

As Principal Chief of the Choctaw Nation, and Governor of the Chickasaw Nation, we have met in conference, and jointly considered the suggestion of the Department, communicated to us through Hon. J.Geo.Wright, United States Indian Inspector, located in the Indian Territory, by letter and orally, that Hon. B. S. Smiser, Townsite Commissioner for the Choctaw Nation, and Hon.W.B.Burney, Townsite Commissioner for the Chickasaw Nation, be directed to proceed under the Townsite Amendment to the recent Indian Appropriation Bill, and not under the Atoka Agreement, to lay out and fix the exterior limits of towns in the Choctaw and Chickasaw Nations, preparatory to platting and surveying same under said bill.

You are advised that, in our opinion, the procedure suggested is in violation of the treaty known as the Atoka Agreement, and on behalf of the two nations we represent, we cannot agree to the same, by directing the Choctaw and Chickasaw Townsite Commissioners to so proceed. In this connection we deem it not improper to briefly suggest the reasons that have led us to this conclusion:

--press book no. 4. letter 339.--



101

The Townsite Provision of the Atoka Agreement, ratified by Congress June 28, 1898, and by vote of the Choctaw and Chickasaw people August 24, 1898, is in part, as follows:

"It is further agreed that there shall be appointed a Commission for each of the two (Choctaw and Chickasaw) Nations. Each Commission shall consist of one member to be appointed by the Executive of the tribe for which said Commissioner is to act, who shall not be interested in town property other than his home, and one to be appointed by the President of the United States. Each of said Commissions shall lay out townsites, to be restricted, as far as possible, to their present limits, where towns are now located in the nation, for which said Commission is appointed. Said Commission shall have prepared correct and proper plats of each town, and file one in the Clerk's office of the United States District Court for the District in which the town is located, and one with the Principal Chief, or Governor, of the nation in which the town is located, and one with the Secretary of the Interior, to be approved by him before the same shall take effect....."

Under the townsite provision of the recent Indian Appropriation Bill, it is provided that towns are to be laid out surveyed and platted without reference to the Atoka Agreement, and that the Commissions as now organized thereunder will have nothing to do with them until the appraisement is reached.

It will be observed by reference to the townsite provision of the Atoka Agreement that the Nations are guaranteed a voice and representation in the laying out of townsites, the restriction of the areas so laid out, to the present limits of such towns, the limiting of towns to be laid out to those now (at the time of

--press book no. 4 letter 339.--



the ratification of the agreement) located, the preparation of correct and proper plats of such towns, and the appraisement and sale of lots in such towns.

If this provision of the Atoka Agreement is departed from, and the townsite provision of the Indian Appropriation Bill adhered to, the nations will thus be deprived of four out of five of the safeguards guaranteed by the treaty.

The Choctaw and Chickasaw Indians hold their lands by a fee-simple title. It has always been held, not only by the courts, but by the Department, and in the halls of Congress, that not only can this title of the Indians to their lands, and their interests therein, be not affected, without agreement with them, but that they cannot be forced to change their occupancy thereof from a common to individual holding, except by treaty. The townsite, and other provisions, of the Atoka Agreement, affect this fee simple title, and changes the character of their occupancy thereof from a common to a several holding, and are legal and enforceable only in the form of an agreement. To overcome this difficulty, the agreement became necessary, and was entered into. If this difficulty could not have been obviated without the necessity for an agreement with the Indians, it would not, we apprehend, have been entered into.

Our people entered into the agreement in good faith, with an understanding of its provisions. They had a voice in framing it, and by their votes it was ratified and became effective. They understand the townsite provision. It protects their interests and is satisfactory. They asked for, and it was agreed that they should have, a voice and representation, not only in

the appraisement of lots in such towns, but the laying out of  
--press book no. 4 letter 339.--



townsites, restricting areas to present limits, limiting towns to those now in being, and the preparation of correct and proper plats. While these are matters of perhaps less financial importance than the appraisement, they more vitally affect the title and occupancy of the Indians to and of their lands. The townsite provision of the Atoka Agreement gives them voice and representation in all of these steps that affect such title and occupancy. The townsite provision of the Indian Appropriation Bill does not give them such representation, and is, therefore, illegal and void, and we shall so contend.

As a further evidence of the scope of the Indian Appropriation Bill, it is provided therein, that the Commission to the Five Civilized Tribes is authorized to set aside and reserve from allotment, in the Choctaw and Chickasaw Nations, townsites in one hundred and sixty (160) acre tracts. If this should be followed, it would be a violent carying (Sic) out of and setting aside from the lands of the Choctaws and Chickasaws without an agreement with them. If one hundred and sixty (160) acres can thus be taken away from the, one hundred and sixty thousand (160,000) acres can as well be taken, and if this can be done, all the lands of the Choctaws and Chickasaws can be taken away from them by Act of Congress, and their title extinguished, and vested elsewhere. As this is the logical effect of all the acts of the Department under these provisions of the Indian Appropriation Bill, we are still less inclined to agree to any procedure thereunder, but to insist upon an adherence to the Atoka Agreement, in order that our rights may be protected.

The Indian Inspector for the Indian Territory has recently  
 --press book no. 4 letter 339.--



prepared and promulgated a circular of instructions relative to the procedure of the Department under these townsite provisions of the Indian Appropriation Bill. Among other things he says:

"The Act of Congress above referred to provides that as soon as the survey and plat of any town is completed and approved by the Secretary of the Interior, a Commission will be appointed for the purpose of appraising and disposing of the lots in said town."

If this procedure should be followed, and new Commissions appointed, the nations would have no representation whatever on the townsite work.

We understand that it is not contended that the Indian Appropriation Bill is in harmony with the Agreement, but that the practical results will be the same, and that the exigencies that impel the Department to ignore the Agreement and proceed under such provision, are such as to justify them in so proceeding. In a letter dated August 6th., 1900, and addressed to the Governor of the Chickasaw Nation, Hon. J. Geo. Wright, United States Indian Inspector located in the Indian Territory, among other things, says:

"While it may be considered that the proposed manner is a technical violation of the agreement, the practical results will be the same, and the nation will not lose any money under the new arrangement.

While not material to our contention, it might be well to inquire: "What are the exigencies that compel this violation of the Agreement?" It cannot be contended, certainly, that the work of the two commissions organized under the Agreement, so far as it has proceeded, is not satisfactory, both to the nations and the Department. The only thing therefore upon which this violation --press book no. 4 letter 339.--



of the Agreement could be based, is that there is a necessity for hurrying the work. Conceding that there is a necessity for hurrying the work, beyond the progress already made, and the Choctaws and Chickasaws do not contend otherwise, there is no necessity or justification for thus violating the Agreement. The present Commissions, organized and appointed under the Agreement, are composed of men who are not only familiar with the scope of the work, but competent to extend the same throughout the two nations, if provided with sufficient authority and funds for that purpose. To thus extending the work, in conformity to the Agreement, the Choctaws and Chickasaws do not object. It cannot be contended by any one, and will not be suggested by the Department, that the Choctaws and Chickasaws, or their officers, have ever attempted to delay or embarrass the work of the Department under the Atoka Agreement. On the contrary they have ever stood ready to co-operate with the Government and Departmental officers in the administration of their affairs, under the Agreement, and in all plans and policies that tended to facilitate and simplify such work. On May 5th, of this year the Choctaws and Chickasaws assembled in convention, by representatives and delegates from every county in the two nations, and every expression of said convention was as here suggested. These resolutions were transmitted to Washington for the information of the Department and Congress.

Resolution Four is as Follows:



"That the Choctaw and Chickasaw people desire that the allotment of lands and the laying out of townsites proceed with all possible speed, consistent with the strict observance of the Atoka Agreement. To that end, and with only this condition, we endorse the request of the Dawes Commission for an increased appropriation for that purpose, and we request that the Choctaw and Chickasaw Townsite Commissions be given such an appropriation as will enable them to so increase their working force that the townsite work may keep pace with the work of the Dawes Commission."

That contingencies not foreseen at the time the Atoka Agreement was entered into should arise, is but natural. It may be that, from the standpoint of the Government, in order that the work may be facilitated and simplified, it is now desirable to do certain things not provided for in the Atoka Agreement; but we respectfully submit that that is no warrant or justification for violating the Agreement, violating the interests, title and occupancy of the Indians in and to their lands, and proceeding in a manner heretofore held by all tribunals to be illegal and void. In this connection we would respectfully suggest that if it should appear that it is desirable to proceed in a way not authorized by the Agreement, such procedure can be authorized only by an agreement supplementary to the Atoka Agreement. The Choctaw and Chickasaw people stand ready to cheerfully consider any plan or suggestion that may be offered to this end; and, in the event they should be adopted and become effected in that way, such procedure will not only be legal and valid, and all questions as to legality obviated, but the consideration thus accorded our people will cause them to accept such action by the Government with perfect

--press book no. 4 letter 339.--



cheerfulness and satisfaction.

In conclusion we respectfully request that no townsite work be done within the limits of the Choctaw and Chickasaw Nations under the provisions of the Townsite feature of the recent Indian Appropriation Bill; but that the powers of the present Commissions be enlarged, and the fund for the work under their direction be increased, so that the townsite work may be carried forward with all desired speed.

If, after considering the matter in the light of these suggestions the Department believes it to be its duty to proceed under the provisions of the Indian Appropriation Bill, we feel it our duty, in the interest of our people, to make a protest, and, so far as we may be able, with the means available, to protect against what we conceive to be an unwarranted innovation, regretting the necessity which impels us to such a course.

Very respectfully,  
Green McCurtain,  
Prin.Chief Choctaw  
Nation,  
D.H.Johnston,  
Governor Chickasaw  
Nation.



108

DEPARTMENT OF THE INTERIOR.  
Washington.

August 18, 1900.

The United States Indian Inspector  
for the Indian Territory,  
Muscogee, I. T.

Sir:

The Department is in receipt of your communication of the 4th instant, suggesting that some means should be adopted for the transfer of title from the several nations or tribes in the Indian Territory to the lands included and laid out as "streets and alleys".

You state that the purchaser of lots, after making final payment terefor, is to receive a patent from the Principal Cheif or Governor of the Nation in which the townsite is situated; that it does not appear that any provision is made for the transfer of title from the nation for lands embraced in streets and alleys, and to avoid "complications in the future" you desire to be informed whether it would not be advisable to call the attention of the Principal Chiefs and Governors of the different nations to this matter, suggesting that their councils dedicate to the various towns such land as is included in streets or alleys therein, or in some such manner extinguish their title to such property.

The Commissioner of Indian Affairs, reporting on the 14th instant upon your communication of the 4th instant, states that he considers that when the Choctaw and Chickasaw Nations entered into an agreement with the United States (Section 29, act of June 28, 1898) for the division of their lands in severalty and for the laying out of portions thereof into towns, consented to a dedication of the lands covered by the streets and alleys to the public; that in the cases of the Creek and Cherokee Nations, the United States, by said act of



June 28, 1898, made provision for the laying out of streets and alleys in towns, and that the Indian Appropriation Act of May 31, 1900, (Public No. 131), made further provision for the same purpose; that Congress, in passing said acts, seems to have proceeded on the theory that the Government had the right to divest itself of the trust which it had held for the Creek and Cherokee tribes in such manner as might be deemed best by it for the interests of said Nations; that when a plat of any town is approved by the Secretary of the Interior, the land embraced in the streets and alleys is dedicated to the public. The Commissioner recommends that you be so advised.

The Department concurs in the Commissioner's recommendation, and incloses herewith a copy of his letter.

Respectfully,

Tho. R. Ryan.

Acting Secretary.

Ind.Ter.Div.  
2606-1900  
1 Inclosure.

(Endorsed( Union Agency # 1043 Received Aug. 25, 1900 Office of U. S. Indian Inspector for I. T. Washington, Aug. 18, 1900. Secretary. Relative to extinguishment of title to streets, alleys, etc., in towns.



110

DEPARTMENT OF THE INTERIOR,  
Washington.

August 23, 1900.

United States Indian Inspector  
for the Indian Territory,  
Muscogee, Indian Territory.

Sir:

The Department is in receipt of your letter of the 8th instant, referring to departmental letter of July 10, 1900, in regard to the establishment of parks in the Choctaw and Chickasaw Nations, and to departmental letter of July 27, 1900, on the same subject.

You inclose a letter from Townsite Commissioner Smiser of the 7th instant, referring to the instructions of the Department, in which he states that unless there be some limit put on the amount to be given for parks many towns will try to secure all the vacant land possible in such manner; that if an order were issued limiting parks in each town to about ten acres, "the nation would agree to dispose of it at the rate of \$10.00 per acre".

You recommend the approval of the suggestions made by Mr. Smiser that ten acres be set aside for park purposes at \$10.00 per acre, "provided it would be agreeable to the authorities of said nations, " but state that as the towns will naturally desire to secure as much land as possible at the rate of \$10.00 per acre, and as parties in the Territory construe



the law differently, you suggest the advisability of submitting this matter to the Assistant Attorney General for the Interior Department for an opinion.

The Department does not consider it necessary to submit the matter to the Assistant Attorney General. As stated by the Acting Commissioner of Indian Affairs, this matter has been fully settled, except as to the size of parks, by various letters, one of which - that of August 9th - was written subsequent to your present communication, in which it was stated that the act of June 28, 1898, fixed the price for parks at \$10.00 per acre.

The law does not say, nor does it intend, that every town should have a park, and the Department considers that when a park is deemed necessary ten acres in most cases would be sufficient. When it is deemed advisable to set aside more than ten acres the Department should be consulted in regard to the matter.

You will instruct all parties in interest accordingly.

A copy of the Acting Commissioner's letter is inclosed.

In regard to your letter to Mr. Hall, mayor of Wagoner, of August 4, 1900, in which you suggest to him that if the town of Wagoner so desires the townsite commission will designate on the plat the tract desired for park purposes, subdividing the same into lots, blocks, streets and alleys, and at the time of sale the authorities of the town can bid in such vacant lots and receive the tract for park purposes, your attention is called



to departmental letter of the 18th instant, in which you were advised that streets in towns were dedicated by the several nations to the towns.

Respectfully,

Tho. R. Ryan

Acting Secretary.

Ind. Ter. Div.  
2755-1900.  
1 inclosure.

(Endorsed) Union Agency No. 1048 Received Aug. 28, 1900 Office of U.S. Indian Inspector for Indian Territory. Washington, Aug. 23, 1900. Secretary.-----Relative to setting aside parks in Choctaw and Chickasaw Nations, and in town of Wagoner.-----



DEPARTMENT OF THE INTERIOR,  
Office of U.S. Indian Inspector,  
For  
Indian Territory,  
Muscogee, Ind.T. August 24, 1900.

d-1033-1900.

The Honorable,  
The Secretary of the Interior,  
Washington, D. C.

Sir:

In response to Departmental communication "Ind.Ter.Div. 2709-1900" dated the 17th instant directing me to carry out the instructions given in your communication of the 16th ultimo that the Supervising Engineer should "be required to furnish to the General Land Office a specific list of townships in which towns are located," I have the honor to state that for the present the work of surveying and platting towns is confined to the Choctaw and Chickasaw Nations (excepting at Muskogee and Wagoner which are in the Creek Nation), and that therefore only township plats in said Choctaw and Chickasaw Nations will be required now, covering the towns, as indicated below:

Hickory,	I.T.	Tp.	1 N, R. 4 E,
Coalgate,		"	1 N, " 10 E,
Marlow,		"	2 N, " 7 W,
Wynnewood,		"	2 N, " 1 E,
Roff,		"	2 N, " 4 E,
Stonewall,		"	2 N, " 7 E,
Pauls Valley		"	3 N, " 1 E,



Hart and Midland,	I.T.	Tp.	3 N R.	4 E,
Kiowa,		"	3 N,	" 13 E
Talihina,		"	3 N,	" 21 E
Thomasville,		"	3 N,	" 25 & 26 E,
Paoli,		"	4 N	" 1 W,
Erin Springs,		"	4 N,	" 4 W,
Rush Springs,		"	4 N,	" 7 W,
McGee,		"	4 N,	" 3 E
Center and Bebee,		"	4 N,	" 6 E
Ada, Hird and Oakman,		"	4 N,	" 6 E
Guertie,		"	4 N,	" 10 E
Savanna,		"	4 N,	" 14 E
Hartshorne,		"	4 N,	" 17 E
Johnson,		"	5 N,	" 2 E
Maxwell		"	5 N,	" 4 E
Allen,		"	5 N,	" 8 E
South McAlester,		"	5 N,	" 14 & 15 E,
Alderson and Krebs,		"	5 N,	" 15 E
Wilburton,		"	5 N,	" 19 E
Reichert,		"	5 N,	" 24 E
Heavener,		"	5 N,	" 26 E
Purcell,		"	6 N,	" 2 W,
Calvin,		"	6 N,	" 10 E,
McAlester,		"	6 N,	" 15 E,
Fanshawe,		"	6 N,	" 23 E,
Wister,		"	6 N,	" 24 E,
Cavanal and Howe,		"	6 N,	" 25 E,
Chickasha,		"	7 N,	" 7 W,



Poteau and Witteville, I. T.	Tp.	7 N, R	25 E,
South Canadian,	"	8 N, "	16 E,
Shady Point,	"	8 N, "	25 E,
Cameron,	"	8 N, "	26 E,
Brooken and Enterprise,	"	9 N, "	18 E,
Hoyt,	"	9 N, "	19 E,
Whitefield,	"	9 N, "	20 E,
Stigler,	"	9 N, "	21 E,
Bokoshe,	"	9 N, "	24 E,
Spiro,	"	9 N, "	25 E,
Oaklodge,	"	9 N, "	26 E,
Minco,	"	10 N, "	7 W,
Cowlington,	"	10 N, "	24 E,
Tamaha,	"	11 N, "	22 E,
Tussy,	"	1 S, "	3 W,
Duncan,	"	1 S, "	7 W,
Davis,	"	1 S, "	2 E,
Sulphur,	"	1 S, "	3 E,
Connerville and Pontotoc,	"	1 S, "	6 E,
Lehigh and Phillips,	"	1 S, "	10 E,
Loco,	"	2 S, "	5 W,
Comanche,	"	2 S, "	7 W,
Dougherty,	"	2 S, "	2 E,
Reagan,	"	2 S, "	5 E,
Wapanucka,	"	2 S, "	8 E,
Atoka,	"	2 S,	11 E,
Springer,	"	3 S,	2 E,
Berwyn,	"	3 S, "	3 E,



Lonegrove, I.T.	Tp.	4 S,	R.	1 W,
Ardmore,	"	4 S,	"	2 E,
Durwood,	"	4 S,	"	3 E,
Earl and Mannville,	"	4 S,	"	4 E,
Ravia and Russet,	"	4 S,	"	5 E,
Emet,	"	4 S,	"	7 E,
Antlers,	"	4 S,	"	16 E,
Cornish,	"	4 & 5S,	"	4 W,
McMillan	"	5 S,	"	3 E,
Oakland,	"	5 S,	"	5 E,
Caddo,	"	5 S,	"	10 E,
Orr,	"	6 S,	"	3 W,
Ryan,	"	6 S,	"	7 W,
Cliff,	"	6 S,	"	6 E,
Cumberland,	"	5&6 S,	"	7 E,
Silo,	"	6 S,	"	8 E,
Durant,	"	6 S,	"	9 E,
Terral,	"	7 S,	"	7 W,
Marietta,	"	7 S,	"	2 E,
Lebanon,	"	6& 7 S,	"	4 E,
Sterrett,	"	7 S,	"	8 E,
Grant,	"	7 S,	"	17 E,
Goodwater,	"	7 S,	"	26 E,
Leon,	"	8 S,	"	2 W,
Colbert,	"	8 S,	"	8 E,
Kemp,	"	9 S,	"	9 E.

The foregoing is a list of the towns in the Choctaw and Chickasaw Nations reported to me by the postmasters thereof --press book no. 4 letter 373.--



respectively as having a population of two hundred, or more, and I therefore respectfully request that a set of township plats indicated be furnished me for the use of the Supervising Engineer in prosecuting the work of surveying and platting those towns.

For your information, I also have the honor to transmit herewith a map of the Indian Territory showing the location of these towns (underscored in red ink).

Very respectfully,

Your obedient servant,

J. Geo. Wright,

U.S. Indian Inspector  
for Indian Territory.



118

DEPARTMENT OF THE INTERIOR. F.

Washington.

November 3, 1900.

United States Indian Inspector

For Indian Territory,

Muskogee, I. T.

Sir:

The Department is in receipt of your report of the 26th ultimo referring to departmental letter of September 25th last, requesting full and detailed report concerning mining operations in the Choctaw and Chickasaw Nations, Indian Territory, and to departmental telegram of October 25th concerning your request to be advised whether or not the coal applications of the Missouri, Kansas and Texas Coal Company had been approved, which reads: "Telegram received. Applications not approved. Awaiting report from you under departmental letter September twenty-fifth last."

You report that immediately upon receipt of said departmental letter you "took steps to procure all required information from the several mine operators in the Choctaw and Chickasaw Nations, addressing them communications direct, and also instructing the Mining Trustees to procure the necessary information." You state that the replies from said parties have come in slowly, and you have notified those in default to furnish the required information as soon as possible and also directed the Mining Trustees to see that the information desired is



received at the earliest practicable date, and that when said data is received full report will be made to the Department as required.

The Commissioner of Indian Affairs under date of the 1st instant forwarded your said report, a copy of which is enclosed herewith.

You are informed that your action in the premises is approved by the Department, and it is to be hoped that said information will be received in the near future.

Respectfully,

Edward M. Dawson

Chief Clerk.

Ind.Ter.Div.  
3623-1900.  
1 enclosure.

(Endorsed) Union Agency No. 1315. Received Nov. 10, 1900. Office of U.S. Indian Inspector for Indian Territory. Washington, Nov. 3, 1900, Secretary---Approves action of Inspector rel. to procuring information concerning mining operations, and reporting same.



DEPARTMENT OF THE INTERIOR,

WASHINGTON,

February 14, 1901.

The Chairman of the Conference Committee  
of the Senate and House of Representatives,  
upon Indian Appropriation Bill, H. R. 12904.

Sir:

The Department is in receipt of a communication from the  
Commissioner of Indian Affairs, dated February 13, 1901,  
transmitting therewith a letter from the United States Indian  
Inspector for the Indian Territory of the same date, submitting  
an amendment to be proposed to the pending Indian Appropriation  
Bill, relative to the segregation and disposition of lands in the  
Choctaw and Chickasaw Nations on which towns are located,  
containing less than two hundred people.

The Inspector recommends that an amendment be inserted in  
said bill as follows:

"All lands occupied by towns having a population of less  
than two hundred people shall be segregated and reserved from  
allotment: Provided, That residents of such towns request the  
Secretary of the Interior not later than July first, nineteen  
hundred and one, to so segregate such lands.

The lands so segregated and reserved from allotment shall  
be disposed of not later than January first, nineteen hundred  
and two, in such manner as the Secretary of the Interior may  
direct, by a townsite commission, one member to be appointed  
by the Secretary of the Interior and one by the Executive of  
the nation in which such land is located.

The proceeds arising from the disposition of such land  
to be applied in like manner as the proceeds arising from the  
sale of other townsites."

The Commissioner concurs in the recommendation of the



Inspector.

It appears to be necessary that some legislation be enacted relative to the disposition of towns containing less than two hundred people, but at the present time I deem it inexpedient to recommend legislation further than may be necessary to define the boundaries of said towns, leaving the disposition of the lots therein for further consideration.

I have, therefore, to recommend that an amendment be inserted in said bill as follows:

"The limits of all towns in the Choctaw, Chickasaw, Creek and Cherokee Nations, Indian Territory, having a population of less than two hundred people, shall be defined by the Secretary of the Interior in the same manner as provided for towns having over two hundred people under existing law; and the same shall not be subject to allotment; Provided, That a majority of the male inhabitants of such towns over twenty-one years of age request such action by the Secretary of the Interior not later than July first, nineteen hundred and one."

A copy of the Commissioner's report is enclosed herewith.

Respectfully,

E. A. Hitchcock,

Secretary.

Ind.Ter.Div.  
642-1901.  
1 enclosure.



DEPARTMENT OF THE INTERIOR,  
WASHINGTON.

February 15, 1901.

United States Indian Inspector  
for the Indian Territory,  
Muskogee, Ind. Ter.

Sir:

The Department is in receipt of your communication of February 13, 1901, with reference to the disposition of lands in the Choctaw and Chickasaw Nations on which towns of less than 200 people are located, and submitting a proposed amendment to the pending Indian Appropriation Bill, making provision for the disposition of such lands. You are advised that the Department, in a letter addressed to the Chairman of the Conference Committee of the Senate and House of Representatives upon Indian Appropriation Bill, H.R. 12904, has recommended an amendment to be inserted in said bill as therein set out. A copy of said letter is herewith enclosed for your information.

Respectfully,

Thos. Ryan  
Acting Secretary.

Ind, Ter. Div.  
642-1901.  
1 enclosure.

(Endorsed) Union Agency No. 1795. Received Feb. 23, 1901. Office of U.S. Indian Inspector for Indian Territory. Washington, February 15, 1901. Secretary----Encloses copy of letter to Chairman Conference Committee of House and Senate relative disposition of lands where towns of less than 200 are located..



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IN THE HOUSE OF REPRESENTATIVES.

February 28, 1901.

Mr. Curtis introduced the following bill which was referred to the Committee on Indian Affairs and ordered to be printed.

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A BILL

To ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the agreement bearing date of the seventh day of February, nineteen hundred and one, negotiated between the Commission to the Five Civilized Tribes on the part of the United States and certain persons as commissioners on behalf of the Chickasaw and Choctaw Nations, is hereby amended to read as herein set forth, and as so amended is hereby ratified, subject to the ratification thereof by the legal voters of the Choctaw and Chickasaw Nations in the manner therein provided, and if so ratified by the voters of said nations shall take effect and be in force from and after the date of the proclamation of the result of the vote thereon as provided therein. As so amended, the said agreement is as follows;

AGREEMENT

This agreement, by and between the United States, entered into



in its behalf by Henry L. Dawes, Tams Biby, (Sic) Thomas B. Needles and Clifton R. Breckinridge, Commissioners duly appointed and authorized thereunto, and the Choctaw and Chickasaw tribes of Indians in Indian Territory, respectively, entered into in behalf of such Choctaw and Chickasaw tribes by Gilbert W. Dukes, Thos. D. Ainsworth, William W. Wilson, Alonzo J. Harkins, Cyrus B. Wade, Simon E. Lewis and David C. McCurtain, in behalf of the Choctaw tribe of Indians, and Douglas H. Johnston, Calvin J. Grant, Holmes Willis, Edward B. Johnson and John W. Connelly, in behalf of the Chickasaw tribe of Indians, Commissioners duly appointed and authorized thereunto.

Witnesseth, that in consideration of the mutaul undertakings herein contained, it is agreed as follows:

DEFINITIONS.

1. Whenever used in this agreement, the term "Nations" and "Tribes" shall each be held to mean the Choctaw and Chickasaw Nations or tribes of Indians in the Indian Territory.
2. The term "executives" shall be held to mean the Governor of the Chickasaw Nation and the Principal Chief of the Choctaw Nation.
3. The terms "members" and "citizens" shall be held to mean the recognized members or citizens of the Choctaw or Chickasaw tribes of Indians in Indian Territory, not including freedmen, who have been duly and lawfully enrolled or admitted as such.
4. The term "Atoka Agreement" shall be held to mean the agreement made by the Commission to the Five Civilized Tribes with the commissions representing the Choctaw and Chickasaw tribes of Indians,



at Atoka, Indian Territory, on the twenty-third day of April, eighteen hundred and ninety-seven, as embodied in the act of Congress approved June 28, 1898 (30 Stat., 495).

ROLLS OF CITIZENS.

5. The rolls of the Choctaw and Chickasaw citizens, and of Choctaw and Chickasaw freedmen, shall be made by the Commission to the Five Civilized Tribes, as of September first, nineteen hundred and one.

6. No child, born to any citizen or freedman, after September first, nineteen hundred and one, nor any white person who intermarries with a Choctaw or Chickasaw citizen after said date, shall be entitled to enrollment: Provided, that only freedmen and their descendants who resided in said nation at the date of the treaty of April 28, 1866, commonly called the Fort Smith Treaty, shall be entitled to enrollment: Provided further, That if any such freedman whose name appears upon said final rolls shall, at the time of allotments of lands are made, be found to be dead, the lands, if any, to which such freedman would have been entitled, shall be allotted and shall descend to his heirs as provided in Section 12 of this agreement.

7. No person whose name appears upon the rolls made by the Commission to the Five Civilized Tribes as a citizen or freedman of any other tribe, shall be enrolled as a citizen or freedman of the Choctaw or Chickasaw Nations.

8. It being claimed and insisted by the Choctaw and Chickasaw Nations that the United States Courts in Indian Territory, acting under the act of Congress approved June 10, 1896, have



admitted persons to citizenship, or to enrollment as such citizens, in the Choctaw and Chickasaw Nations, respectively, without notice of the proceeding in such courts being given to each of said Nations and it being insisted by said Nations that in such proceedings notice to each of said Nations was indispensable; and it being desirable to finally determine this question, either of said Nations may, within ninety days after this agreement becomes effective, by a bill in equity filed in the United States Court for the Southern District of Indian Territory, seek the annulment and vacation of all such decisions by said courts. The other of said Nations shall be a party defendant to such suit, and ten persons so admitted to citizenship or enrollment by said courts, with notice to one but not both of said Nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties of the suit; but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, and upon each of said representatives defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw Nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication. Full jurisdiction (Sic) and authority to entertain said suit and finally determine said question is hereby conferred upon said court. Any party feeling aggrieved by the



decision of said court may appeal directly to the Supreme Court of the United States within ninety days thereafter. Said suit shall take precedence on the dockets of both courts and shall be determined at the earliest practicable time. Said suit shall be confined to a final determination of the question of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in Indian Territory does an injustice to either of said nations by according citizenship or enrolment - - - to persons not justly entitled thereto.

In the event it shall be finally determined that the courts in Indian Territory were without jurisdiction to admit persons to citizenship or to enrolment - - - as citizens in either of said Nations, in the absence of notice of such court proceedings to both Nations, all persons who are thus deprived of a favorable judgement (Sic) upon their citizenship may, at any time within ninety days from the time such question is so finally determined, apply to the Commission to the Five Civilized Tribes for admission to citizenship or enrolment - - - as citizens in the Choctaw or Chickasaw Nation, and the Commission shall speedily and finally determine the merits of such applications, subject to the approval of the Secretary of the Interior.

United States Court in the Indian Territory shall have full jurisdiction of suits to annul and vacate judgements (Sic) of such courts rendered under act of Congress of June 10, 1896, admitting persons to citizenship or to enrollment as citizens in either of said nations where in a bill of complaint it is



charged and made to reasonably appear that such judgements (Sic) for any reason do an injustice to either of said nations by according citizenship or enrolment - - - to persons not justly entitled thereto; but such suits can only be instituted by one or the other of said nations before September 1, 1901. Such suits shall take precedence upon the dockets of said courts and shall be as speedily determined as may be consistent with due consideration of the rights of the parties.

9. Except as provided in article eight hereof, no applications shall be recieved (Sic) by the Commission to the Five Civilized Tribes from, or on behalf of, any person for enrolment (-le)- as a citizen or freedman of the Choctaw or Chickasaw Nations after December thirty-first, nineteen hundred and one.

10. Said rolls shall, except as herein provided, be made in strict compliance with the previsions of existing acts of Congress relating thereto.

11. Said rolls as made by the Commission to the Five Civilized Tribes, when approved by the Secretary of the Interior, shall constitute the final rolls of the Choctaws and Chickasaws upon which the allotments of land and distribution of tribal property shall be made.

12. If any person whose name appears upon said final rolls shall at the time of allotment of lands, be found to be dead, the lands to which such person would have been entitled, if living, shall be allotted in his name, and shall, together with his proportionate share of other tribal property, descend to his heirs according to the laws of descentand (Sic) distribution as provided in Chapter 49 of Mansfield's Digest of the Statutes of Arkansas,



provided that the allotment thus to be made shall be selected by a duly appointed administrator or executor. If, however, such administrator or executor be not duly and expeditiously appointed, or fails to act promptly when appointed, or if for any other cause such selection be not made within a reasonable and practicable time, the Commission to the Five Civilized Tribes shall designate the lands thus to be allotted.

MISSISSIPPI CHOCTAWS

13. All persons who may duly identify themselves to the Commission of the Five Civilized Tribes as Mississippi Choctaws entitled to the benefits conferred by Section 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may make bona fide settlement within the Choctaw-Chickasaw country and on proof of such settlement to such Commission on or before December 31, 1901, may be enrolled on separate roll of such Commission as Mississippi Choctaws entitled to allotment which enrollment shall be final when approved by the Secretary of the Interior.

14. When any such Mississippi Choctaw shall have continuously resided upon the lands of the Choctaw and Chickasaw Nation for a period of three years, including his residence thereon before and after such enrolment, he shall, upon due proof of such continuous residence made in such manner and before such officer as may be designated by the Secretary of the Interior, receive a patent for his allotment, as provided in the Atoka Agreement, and he shall hold the lands allotted to him, as provided in that agreement, for citizens of the Choctaw and Chickasaw Nations.



15. If Within four years after such enrolment any such Mississippi Choctaw, or his heirs or representatives if he be dead, fails to make proof of such continuous bona fide residence for the period so prescribed, or up to the time of the death of such Mississippi Choctaw, in case of his death after enrolment, he, and his heirs and representatives, if he be dead, shall be deemed to have acquired no interest in the lands set apart to him, and the same shall be sold at public auction for cash, under rules and regulations prescribed by the Secretary of the Interior, and the proceeds paid into the treasury of the United States to the credit of the Choctaw and Chickasaw tribes. Such lands shall not be sold for less than their appraised value, according to the appraisement provided for in the Atoka Agreement. Upon payment of the full purchase price, patent shall issue to to the purchaser in accordance with the provisions of the Atoka Agreement, wherein it provides for patents to allottees.

16. Authority is hereby conferred upon the Court of Claims to determine the existing controversy respecting the relations of the Chickasaw freedmen to the Chickasaw Nation and the rights of such freedmen in the lands of the Choctaw and Chickasaw Nations, under the third article of the treaty of eighteen hundred and sixty-six between the United States and the Choctaw and Chickasaw Nations and under any and all laws subsequently enacted by the Chickasaw legislature or by Congress.

17. To that end the Attorney-General of the United States is hereby directed, on behalf of the United States, to file in said Court of Claims, within sixty days after this agreement becomes effective, a bill of interpleader against the Choctaw and



Chickasaw Nations and the Chickasaw freedmen, setting forth the existing controversy between the Chickasaw Nation and the Chickasaw freedmen and praying that the defendants thereto be required to interplead and settle their respective rights in such suit.

18. Service of process in the suit may be had on the Choctaw and Chickasaw Nations, respectively, by serving upon the principal chief of the former and the governor of the latter a certified copy of the bill, with a notice of the time for answering the same, which shall not be less than thirty nor more than sixty days after such service, and may be had upon the Chickasaw freedmen by serving upon each of three known and recognized Chickasaw freedmen a certified copy of the bill, with a like notice of the time for answering the same, and by publishing a notice of the commencement of the suit, setting forth the nature and prayer of the bill, with the time for answering the same, for a period three weeks in at least two weekly newspapers having general circulation in the Chickasaw Nation.

19. The Secretary of the Interior shall employ competent counsel to represent the Chickasaw freedmen in said suit and to protect their interests therein; and the compensation of counsel so employed for the Chickasaw freedmen, including all costs of printing their briefs and other incidental expenses on their part, not exceeding six thousand dollars, shall be paid out of the Treasury of the United States, upon the certificate of the Secretary of the Interior, setting forth the employment and the terms thereof, and stating that the required service has been duly rendered.



v 20. Any party feeling aggrieved at the decree of the Court of Claims, or any part thereof, may within sixty days after the rendition thereof, appeal to the Supreme Court, and in each of said courts the suit shall be advanced for hearing and decision at the earliest practicable time.

21. In the meantime the Commission to the Five Civilized Tribes shall make a roll of the Chickasaw freedmen and shall by make allotments to them, which said allotments shall be held by the Chickasaw Freedmen, not as temporary allotments, but as final allotments, subject only to the terms and conditions which apply to allotments to Chickasaw citizens; and in the event that it shall be finally determined in said suit that the Chickasaw freedmen are not, independently of this agreement, entitled to allotments in the Choctaw and Chickasaw lands, the Court of claims shall render a decree in favor of the Choctaw and Chickasaw Nations, according to their respective interests, and against the United States, for the value of the lands so allotted to the Chickasaw freedmen, as ascertained by the appraisal thereof made by the Commission to the Five Civilized Tribes for the purpose of allotment, which decree shall take the place of the said lands and shall be in full satisfaction of all claims by the Choctaw and Chickasaw Nations against the United States or the said freedmen on account of the taking of the said lands for allotment to said freedmen.

TOWN SITES.

22. The Choctaw and Chickasaw tribes hereby assent to the Act of Congress approved May 31, 1900 (31 Stat., 221), in so far



as it pertains to townsites in the Choctaw and Chickasaw Nations, ratifying and confirming all acts of the government of the United States thereunder, and consent to a continuance of the provisions of said act, not in conflict with the terms of this agreement.

23. As to those townsites heretofore set aside by the Secretary of the Interior on the recommendation of the Commission to the Five Civilized Tribes, as provided in said act of Congress of May 31, 1900, such additional acreage may be added thereto in like manner as the original townsite was set apart, as may be necessary for the present needs and reasonable prospective growth of townsites, not to exceed six hundred and forty acres for each town.

24. The lands which may hereafter be set aside and reserved for townsites upon the recommendation of the Commission to the Five Civilized Tribes under the provisions of said act of May 31, 1900, shall embrace such acreage as may be necessary for the present and reasonable prospective growth of said towns, and not to exceed six hundred and forty acres for each town.

25. Whenever any tract of land shall be set aside for townsite purposes as provided in said act of May 31, 1900, or by the terms of this agreement, which is occupied by any member of the tribes, such occupant shall be fully compensated for his improvements thereon, out of the funds of the tribes arising from the sale of townsites, under rules and regulations to be prescribed by the Secretary of the Interior, the value of such improvements to be determined by a board of appraisement, one member of which shall be appointed by the Secretary of the Interior, and one by the Chief executive of the tribe in which the townsite is located,



and one by the occupant of the land, said board of appraisement to be paid such rates as may be determined by the Secretary of the Interior out of any appropriations for the surveying, laying out, platting, and selling townsites.

26. All townsites in the Choctaw and Chickasaw Nations, whether set aside or established under the provisions of said act of May 31, 1900, or otherwise, shall be appraised and sold strictly in accordance with the provisions of the Atoka Agreement, as embodied in the act of June 28, 1898 (30 Stat., 945). Whenever the chief executive of the Choctaw or Chickasaw Nations fails or refuses to appoint a townsite commissioner for any town or to fill any vacancy caused by the neglect or refusal of the townsite commissioner appointed by the Chief executive of the Choctaw or Chickasaw Nation to qualify or act or otherwise, the Secretary of the Interior, in his discretion, may appoint a commissioner to fill the vacancy thus created. Provided, that in townsites set aside and established under to provisions of the said act of May 31, 1900, and of this agreement, the Choctaw and Chickasaw tribes shall receive the full appraised value of all lots upon which improvements, as defined by said Atoka Agreement, have been made prior to November 1, 1901, and that lots upon which improvements had been placed thereon.

27. That there shall be appointed, in the manner provided in said Atoka Agreement for appointment of townsite commission, such additional commissions as the Secretary of the Interior may deem necessary for the speedy disposal of all townsites in said Nations:



Provided, That the jurisdiction of said additional townsite commissions shall extend to such townsites only as shall be designated by the Secretary of the Interior.

28. Upon payment of the full amount of the purchase price of any lot in any townsite in the Choctaw and Chickasaw Nations, appraised and sold as herein provided, the chief executives of said nations shall jointly execute, under the hands and the seals of the respective nations, and deliver to purchaser of said lot a patent conveying to him all right, title and interest of the Choctaw and Chickasaw Nations in and to said lot.

MISCELLANEOUS.

30. The acceptance of patents for minors, prisoners, convicts and incompetents, by persons authorized to select their allotments for them, shall be sufficient to bind such minors, prisoners, convicts and incompetents as to the conveyance of all other lands of the tribes.

31. All patents, when executed, shall be recorded in the office of the Commission to the Five Civilized Tribes within said Nations in a book appropriate for the purpose, until such time as Congress shall make other suitable provision for record of land titles, as provided in the Atoka Agreement, without expense to the grantee; and such records shall have like effect as other public records.

32. The provisions of section 3 of the Act of Congress approved June 28, 1898, (30 Stat., 495), shall not apply to or in any manner effect the lands of other property of the Choctaws or Chickasaws, or Choctaw or Chickasaw freedmen.

33. A certificate of allotment issued by the Commission to



the Five Civilized Tribes shall be conclusive evidence of the right of the allottee named therein to the unrestricted possession and occupancy of the land described in said certificate, and it shall be the duty of the United States Indian Agent, Union Agency, upon the written request of said allottee, accompanied by such allotment certificate, or a certified copy thereof, to enforce the following provisions of the Atoka Agreement:

"That the United States shall put each allottee in possession of his allotment and remove all persons therefrom objectionable to the allottee."

34. No act of Congress or treaty provision, nor any provision of the Atoka Agreement inconsistent with this agreement shall be in force in said Choctaw and Chickasaw Nations.

35. The allotment of Choctaw and Chickasaw lands to the members of said tribes, provided for by the terms of the Atoka Agreement, shall be made by the Commission to the Five Civilized Tribes in conformity with the areas and boundaries established by the government survey; and for that purpose forty acre tracts or quarter-quarter sections may be subdivided, but in no instance shall any further subdivision be made for purposes of allotments. Subject to this direction the provisions of the Atoka Agreement that equality in value rather than equality in acreage shall control in making allotments, shall be adhered to, each freedmen receiving, as near as may be accorded to such sub-divisions, lands which in value are equal to forty acres of the acreage lands of the two Nations.



36. Allotments may be selected, and homesteads designated, for minors by a guardian or curator, or by the father or mother, if members, or the administrator having charge of their estates, in order named; and for prisoners, convicts and aged and infirm persons, by duly appointed agents under power of attorney; and for incompetents by guardians, curators, or other suitable persons akin to them; but it shall be the duty of said Commission to see that such selections are made for the best interests of such parties.

37. No allotment of land or other tribal property shall be made to any one or to the heirs of any one whose name is on said rolls and who died prior to September 1, 1901. The right of such person to any interest in the lands or other tribal property shall be deemed to have become extinguished and to have passed to the tribe in general upon his death before September 1, 1901; and any person or persons who may conceal the death of anyone on said rolls as aforesaid, for the purpose of profiting by said concealment, or who shall knowingly receive any portion of any land or other tribal property, or of the proceeds thereof, arising from any allotment prohibited shall be deemed guilty of a felony, and shall be proceeded against as may be provided in other cases of felony, and the penalty for this offense shall be confinement at hard labor for a period of not less than one year nor more than five years, and in addition there to the forfeiture to the Choctaw and Chickasaw Nations of the lands, other tribal property and proceeds so obtained.

38. All controversies arising between the members as to their right to select particular tracts of land shall be determined by said Commission to the Five Civilized Tribes, under the direction



of the Secretary of the Interior.

39. This agreement shall be binding upon the United States and upon the Choctaw and Chickasaw Nations and all Choctaws and Chickasaws, when ratified by Congress and by a majority of the whole number of votes cast by the legal voters of the Choctaw and Chickasaw tribes, in the manner following: The Principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation shall, within ten days after the ratification of this agreement by Congress, make public proclamation that the same shall be voted upon at a special election to, be held for that purpose within thirty days thereafter, and on a certain day therein named; and all male citizens of each of said tribes qualified to vote under tribal laws, shall have a right to vote at the election precinct most convenient to his residence whether the same be within the bound of his tribe or not.

40. The votes cast in both said tribes or nations shall be forthwith returned and duly certified by the precinct officers to the national secretaries of said tribes, and shall be presented by said national secretaries to a board of commissioners consisting of the Principal Chief and the National Secretary of the Choctaw Nation, the Governor and National Secretary of the Chickasaw Nation, and two members of the Commission to the Five Civilized Tribes; and said board shall meet without delay at Atoka, Indian Territory, and canvass and count said votes, and make proclamation of the result.

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(Endorsed) Union Agency No. 48. ----Proposed bill to ratify Choctaw and Chickasaw agreement.



139

D E P A R T M E N T O F T H E I N T E R I O R,  
Washington.

April 30, 1901.

The United States Indian Inspector  
for the Indian Territory,  
Muskogee, I.T.

Sir:

The Department is in receipt of your communication of April 16, 1901, in which you report "that there is a case pending in the United States Court for the Southern District of the Indian Territory, which will probably come up sometime in May next, involving the collection of tribal taxes in the Choctaw and Chickasaw Nations since the passage of the recent act of Congress giving citizenship to the Indians in the Indian Territory."

You further state that the questions raised in said case apply to the Northern District of said Territory, and you request, "at the suggestion of the two district attorneys for these districts, Mr. Wm. B. Johnson for the Southern and Mr. P. L. Soper for the Northern District, that the Honorable Attorney General instruct Mr. P. L. Soper to co-operate with District Attorney Johnson in properly presenting the matter to the court at the time above referred to."

You state that the matter is of great importance and that said attorneys desire to co-operate and submit their arguments together, and you request that the Attorney General be asked to



140

instruct the District Attorney for the Northern District as above indicated.

Your communication fails to inform the Department how said case has arisen, what particular tribal taxes are involved, whether permit or otherwise, or the names of the parties, and the Department certainly has no objection to the appearance of the District Attorney for the Northern District in said case to assist the District Attorney for the Southern District, if the latter so desires, but it is of the opinion that the proper course would be for the District Attorney for the Southern District to request the Attorney General to direct the District Attorney for the Northern District to assist him, if he desires such assistance.

The Department, however, is at a loss to understand under what construction or interpretation of statutes it can be seriously contended that the act of congress approved March 3, 1901 (public No.173), repeals in any way the tribal laws or interferes with the collection of tribal taxes by the Department in the Creek and Cherokee Nations, or changes its responsibility to assist the Choctaw and Chickasaw Nations in the collection of their tribal taxes by removing persons refusing to pay the same, under the provisions of the act of Congress approved June 28, 1898 (30 Stat.,495).

Said act of March 3, 1901, declares that:

"Section six of chapter one hundred and nineteen of the United States Statutes at Large numbered twenty-four, page three hundred and ninety, is hereby amended as follows, to-wit: After



the words 'civilized life', in line thirteen of said section six, insert the words 'and every Indian in Indian Territory'."

The latter part of said section 6 expressly declares that every Indian in the Indian Territory made a citizen of the United States "is entitled to all the rights, privileges and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property". (Underscore mine)

The position of the Executive Department upon the effect of said section is clear, for the Attorney General, on March 12, 1890, rendered an opinion, in which he held that it was the duty of the Government to protect the Indian allottees, under the act of March 2, 1889 (25 Stat., 998), in the enjoyment of their allotments, and in the discharge of that duty the military forces of the United States may, if necessary, be employed by the President for their protection. Said act of 1889 authorized the President to cause allotments to be made under to be made under the provisions of said section 6 of the act of 1887, and made an appropriation therefore.

Reference is made in said opinion of the Attorney General to a prior opinion of the Acting Attorney General, dated July 27, 1888, denying to a state the power to tax lands occupied by Indians as separate allotments, under the then existing regulations, and stated that there was nothing in said act of March 2, 1889, that would lead to a different conclusion or that would make inapplicable the reasoning in the opinion of the Acting



142

Attorney General. He further states that, "in pursuance of treaties with the Indians the lands are partitioned in severalty to the Indians, not because the ordinary Indian title has been totally extinguished, but because the Indians have consented to such arrangement. This being so, and in view of the relation of guardianship the Government still bears and the duty of protection it still owes to these Indians, I have no doubt of the right of the President to the use of the troops for the protection of these allotments."

Without entering into further discussion of the matter, the Department is of the opinion, and so advises you, that it has no objection to the appearance of the United States Attorney for the Northern District in any case in which the Department is interested in the Southern District, if his assistance is desired by the Attorney for the Southern District, but it does not deem it necessary or advisable to request the Attorney General to direct him to appear in said case.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind. Ter. Div.  
1694-1901.  
1 inclosure.

(Endorsed) Union Agency No. 2120 Received May 6, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, April 30, 1901. Secretary.-----Has no objection to U.S. Attorney for Northern District Assisting U.S. Attorney for Southern Dist. but does not feel warranted in requesting Attorney General to so order.-----



DEPARTMENT OF THE INTERIOR,  
Washington,

May 20, 1901.

The United States Indian Inspector  
for the Indian Territory,  
Muskogee, I. T.

Sir:

The Department is in receipt of your letter of May 4, 1901, referring to departmental letter of April 24th returning to you the contract entered into with Bernard Corrigan, of Kansas City, Missouri, for the purchase of timber and stone in the Choctaw and Chickasaw Nations, under the provisions of the act of June 6, 1900 (31 Stat., 660), in order that the amount of material to be used might be specified.

You return the papers and recommend that, as the defect in the original contract has been cured, the contract be approved, and that you be advised thereof by wire. Mr. Corrigan's contract is to purchase timber and stone as follows:

- "Not to exceed eight thousand (8,000) cubic yards of sandstone, second class;
- Not to exceed one hundred thousand (100,000) lineal feet of oak timber for piling;
- Not to exceed five hundred thousand (500,000) feet, board measure, of oak timber for bridges."

The Acting Commissioner of Indian Affairs, in his letter of May 17, 1901, transmitting your report, recommends that the



contract be approved.

No legal or other objection appearing, the contract, and the bond with the Fidelity and Deposit Company of Maryland, guaranteeing the faithful performance of the contract, are approved, and three parts of the contract are inclosed herewith for proper disposition by you. A copy of the Acting Commissioner's letter is also inclosed.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind.Ter.Div.  
1931-1901  
4 inclosures.

(Endorsed) Union Agency No.2199.Received May 25,1901.Office of U.S. Indian Inspector for Indian Territory.Washington,May20,1901. Secretary.---Transmits three copies of Bernard Corrigan's timber contract approved.



Refer in reply to the following:

143

Land.  
50,903-1901.

DEPARTMENT OF THE INTERIOR,  
Office of Indian Affairs,

Washington, September 25, 1901.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed, herewith, a report dated September 13, 1901, from Inspector Wright, relative to the appointment of townsite commissioners for the Choctaw and Chickasaw nations.

The Inspector submits with his report a communication from the Principal Chief of the Choctaw Nation, dated September 12, 1901, and also a letter from the Governor of the Chickasaw Nation of the same date.

The Principal Chief of the Choctaw Nation in his letter refers to the Inspector's communication to him of September 10, quotes certain telegrams that passed between the Department and the Inspector relative to the appointment of a townsite commissioner for the Choctaw Nation, and states that the proposition to adjust townsite matters in the Choctaw and Chickasaw nations was made in good faith in the hope that litigation and contention might be eliminated, as far as possible, and for the purpose of promoting harmony in the conduct of the townsite work.

The Principal Chief further states that he is willing to ap-



point a commissioner satisfactory to the Department who will proceed under existing law and the regulations of the Department "pending the further adjustment of townsite matters in the Choctaw Nation by treaty or otherwise", but that he cannot, in view of Mr. Smiser's action in attacking him and his administration through the columns of his paper, the "Indian Citizen", agree to the reappointment of Mr. Smiser, that if the Department will agree to restore the statu quo of August 15 last and advise him by letter, or otherwise, that there is a vacancy on said commission, he will fill the same by appointment, and direct such commissioner to proceed with the townsite work as above stated.

The Governor of the Chickasaw Nation in his communication concurs in the views expressed by the Principal Chief of the Choctaw Nation.

The Inspector invites attention to the fact that as stated in his telegram, the attorneys for the Choctaw Nation brought suit to enjoin the townsite commission from proceeding or recognizing the appointment of a representative of the nation by the Secretary of the Interior, and states that he was present and furnished the U. S. District Attorney who represented the government in the premises with the correspondence in his possession relative to the matter; that Judge Clayton declined to grant the injunction, holding that the action of the Principal Chief was not an appointment in effect under existing law, and that consequently the appointment by the Secretary of the Interior was justified and the work should



proceed in accordance with such appointment.

The Inxpector further states that he conferred with Mr. Smiser relative to the subject, advising him that such request had been made by the executives of both nations, but did not inform him with reference to the position the Principal Chief had taken relative to him; that Mr. Smiser stated that he was convinced the Principal Chief would decline to reappoint him; that he would not feel warranted in asking such appointment, and that he was further convinced "that the desire of all concerned was to have him relieved from duty."

The Inspector invites attention to the fact that the Governor of the Chickasaw Nation declines to act unless the request of the Principal Chief of the Choctaw Nation is acceded to, and states that he believes it is the desire of all concerned to have Mr. Smiser relieved from duty; that there has been no complaint relative to Mr. Smiser's official conduct, and that he believes that if the Principal Chief of the Choctaw Nation is given an opportunity to appoint a member of the townsite commission he will of course decline to name a person who is objectionable to him.

The Inspector enclosed with his report a copy of the "Indian citizen" which contains the articles referred to in the Inspector's report and the Principal Chief's communication.

Inspector Wright recommends that the request of the executives of the Choctaw and Chickasaw Nations be carefully considered, and that he be advised, by wire, at an early date, relative to the



Department's action in the premises.

So far as this office is aware Mr. Smiser's official actions in connection with his duty as townsite commissioner for the Choctaw Nation have been satisfactory except in one or two instances. He has as is well known to the Department, first refused to comply with the Department's instructions, holding that he was a representative of the nation and subject to the instructions of the Principal Chief of the nation. Afterwards he was relieved from duty and accepted an appointment as townsite commissioner from the Secretary of the Interior in accordance with the provisions of the act approved May 31, 1900, (31 Stats., 660).

It seems that after he had accepted this appointment the "Indian Citizen" which seems to be owned, in part at least, by Mr. Smiser, attached the Principal Chief and his actions in the matter of the surveying and platting of townsites, and that for this reason the Principal Chief will not, if permitted to appoint a townsite commissioner, reappoint Mr. Smiser.

While Mr. Smiser's actions as commissioner have, as above stated, been satisfactory to this office, (Sic) except in one or two instances, in view of the fact that the Governor of the Chickasaw Nation concurs in the expressions of the Principal Chief of the Choctaw Nation and seems to refuse to appoint a townsite commissioner unless the Principal Chief's wishes are acceded to, the office is of the opinion that for the purpose of promoting harmony and facilitating the townsite work in the Choctaw and Chickasaw nations



it would be well to permit the executives of said nations to appoint members of the townsite commissions for the respective nations thus relieving Mr. Smiser from duty.

Very respectfully,  
Your obedient servant,

A. C. Tonner,  
Acting Commissioner.

(G.A.W.)

P.

(Endorsed) Union Agency No. 2821. Received. Oct. 7, 1901. Office of U.S. Indian Inspector for Indian Territory. Washington, Sept. 30, 1901. Secretary----Acknowledges report rel. adjustment townsite complications; request commissioner Smiser to resign.



DEPARTMENT OF THE INTERIOR.

Washington.

I.T.D.3568-1902.

WHR.

June 9, 1902.

The Commission

to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of your communication dated May 29, 1902, acknowledging the receipt of departmental letter dated May 2, 1902, concerning certain representations made by L.P.Hudson and others, relative to their right to sell lands of the Choctaw and Chickasaw nations to white persons under certain contracts made by said Hudson with Mississippi Choctaw Indians in the State of Mississippi, and also acknowledging the receipt of the Acting commission of Indian Affairs' report transmitted therewith and dated April 23, 1902, wherein he recommended that your Commission be directed to make an investigation, and that should the results of said investigation satisfy your Commission that such persons complained of are guilty, to institute proceedings looking to their disbandment, in which recommendation the Department concurred.

You now report that an investigation has been made regarding the statements made by said Hudson, and that on May 27, 1902, he was, by your Commission, suspended from practice before you, the gravity of the charges and the probability of their truth having been considered sufficient to warrant such action.



You further state that a specification of charges which will be furnished Mr. Hudson is being prepared, and that he will be advised of the times and places that witnesses will be heard in support of and in defense of the charges, and that at the conclusion of such hearings the record of proceedings in the premises will be forwarded to the Department for such recommendations as the investigation may warrant.

The Acting Commissioner of Indian Affairs forwarded your said report under date of June 6, 1902.

The Department approves your action in the premises and incloses herewith a copy of the Acting Commissioner's report.

Respectfully,

Thos. Ryan

Acting Secretary.



DEPARTMENT OF THE INTERIOR,  
Office of Indian Affairs,  
Washington.

Land  
32243-1902.

June 6, 1902.

The Honorable

The Secretary of the Interior.

Sir:

Referring to Department letter of May 2, 1902 (ITD-2717) concerning representations made by L.P. Hudson and others relative to their right to sell persons non-citizens of the Choctaw and Chickasaw Nations, 160 acres of land in either of these nations for \$200 under certain contracts made by him with Mississippi Choctaw Indians in the State of Mississippi, there is inclosed herewith a report dated May 29, 1902, from T.B. Needles, Esq., Commissioner in charge of the work of the Commission to the Five Civilized Tribes, in which he states that an investigation has been made of the statements made by Mr. Hudson; that on May 27, 1902, he was suspended from practice before the Commission, "the gravity of the charges and the probability of their truth having been sufficient to warrant such action."

In said communication it is further stated that the Commission is preparing a specification of charges which will be furnished Mr. Hudson and that he will be advised of the times and places that witnesses will be heard in support of and in defense



of the charges, and at the conclusion of such hearings the Commission will forward to the Department the record of its proceedings in the premises with such recommendations as the investigation may warrant.

Very respectfully,

Your obedient servant,

A.C. TONNER,

Acting Commissioner.

(Endorsed) Union Agency No. 9882 Recd. Jun. 19, 1902 Department, Ryan, Washington, D.C., June 9, 1902.-----Approves action of the Commission in the matter of the suspension of L.P. Hudson from practice before the Commission.-----



154

DEPARTMENT OF THE INTERIOR,  
COMMISSION TO THE FIVE CIVILIZED TRIBES.

July 1, 1902

At a special election held in the Choctaw and Chickasaw Nations, September 25, 1902, there was ratified by the citizens of these two tribes an Act of Congress approved July 1, 1902, and entitled, "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes."

This agreement as so ratified and now effective, provides that the rolls of the citizens of the Choctaw and Chickasaw Nations and Choctaw and Chickasaw freedmen shall be made as of the date of the final ratification of such agreement.

Section 34 of said agreement provides as follows:

"During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as 'delinquents,' and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages on or before the date of the passage of this Act by Congress, and such infant children as may have been born to recognized and enrolled citizens on or before the date of the final ratification of this agreement but the application of no person whomsoever for enrollment shall be received after the expiration of the said ninety days."

For the purpose of the enrollment of those classes of



persons as provided by section 34 above quoted, the Commission to the Five Civilized Tribes will be in session at the following designated places on the dates given:

Chickasha, Chickasaw Nation,	Oct. 15, to 17, inc.
Pauls Valley, Chickasaw N.	Oct. 20, to 24, inc.
Ardmore, Chickasaw Nation,	Oct. 27, to 31, inc.
Tishomingo, Chickasaw N.	Nov. 3, to 7, inc.
Ada, Chickasaw Nation,	Nov. 10, to 14, inc.
Atoka, Choctaw Nation,	Nov. 17, to 21, inc.
Kullituklo, Choctaw N.	Nov. 24, to 28, inc.
Antlers, Choctaw Nation,	Dec. 1, to 5, inc.
Tushkahomma, Choctaw N.	Dec. 8, to 12, inc.
Wister, Choctaw Nation,	Dec. 15, to 19, inc.
South McAlester, Choctaw N.	Dec. 22, to 24, inc.

After December 24th, 1902, the Commission will be without authority to receive the application of any person whomsoever for enrollment as a citizen or freedman of either the Choctaw or Chickasaw Nations.

The appointments above designated will be the last opportunity afforded citizens of the Choctaw and Chickasaw Nations to present their applications.

It is necessary that the status of all intermarried citizens on September 25, 1902, be determined and citizens by intermarriage should avail themselves of this opportunity to present testimony showing their status on that date.

The Commission will also at these appointments receive



applications for the enrollment of infant children born prior to September 25, 1902, and proofs of death of citizens and freedmen previously listed for enrollment but who died prior to said date.

NO ORIGINAL APPLICATIONS FOR THE ENROLLMENT OF PERSONS WHOSE NAMES ARE NOT ON THE TRIBAL ROLLS OR APPLICATIONS FOR IDENTIFICATION AS MISSISSIPPI CHOCTAWS WILL BE HEARD AT THESE APPOINTMENTS.

**COMMISSION TO THE FIVE CIVILIZED TRIBES.**

Tams Bixby

ACTING CHAIRMAN.

MUSKOGEE, I. T. October 4, 1902.

Union Agency # 61. List of appointments in Choctaw and Chickasaw Nations.



158

D E P A R T M E N T O F T H E I N T E R I O R.  
Washington.

July 7, 1902.

Commission to the Five Civilized Tribes,  
Muskogee, Indian Territory.

Gentlemen:

There is transmitted herewith, for your files, copy of act of Congress, approved July 1, 1902 (Pub. No. 228), entitled, "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes."

By direction of the Secretary.

Respectfully,

Edward W. Dawson.  
Chief Clerk.

1 inclosure.

(endorsed) # 11299, Received Jul. 12, 1902. Commission to Five Tribes, Department, Dawson, Washington, D. C., July 7, 1902, Muskogee, Okla. Encloses copy of agreement with Choctaw and Chickasaw Indians.



The HERALD PUBLISHING Co.  
305 W. Woodard St.

159  
Daily Herald-established  
Weekly Herald- 1889.

Denison, Texas, Aug. 19, 1902.

Hon. Tams Bixby,  
Chairman Dawes Commission,  
Muskogee, I. T.

Dear Sir:-

Mr. P. B. Hopkins was in the city this afternoon, and called on the Herald. I asked him, in the course of a conversation relative to the supplementary treaty between Chickasaws and Choctaws and Dawes Commission, if we could not get a full and concise explanation of the treaty from the Commission, for publication in the Herald.

Mr. Hopkins told me that by addressing you and giving you the name of a citizen of the Chickasaw Nation, you would address a communication to that citizen, setting forth all the advantages of the treaty, and in fact, give a full reply to the letter of The Honorable Dick McLish, under date of August 6. I have written a letter of inquiry, and signed the name of A.N. Leecraft of Colbert. I have notified Mr. Leecraft by 'phone and if you will return a copy of this letter and an explanation of the treaty for publication, I will be grateful.

The explanation will be published in the Herald, and I will also send a copy to the Dallas News, as I represent them here. If you can make two copies of the matter, I will be obliged.



Thanking you in advance,

Respectfully,

Robt. Carvar.

P.S. Mail matter to me at Denison, please.

R.C.

(Endorsed) Union Agency No.478.---Relative to the supplementary treaty between Chickasaws and Choctaws and Dawes Commission, re.explanation of the treaty from the Commission, for publication in the Herald.-----



161

D E P A R T M E N T O F T H E I N T E R I O R,

Washington.

ITD. 5190-&  
3875-1902.

August 22, 1902.

United States Indian Inspector

for the Indian Territory, Muskogee, I. T.

Sir:

On August 15, 1902, you transmitted a lease in quadruplicate, entered into July 5, 1902, by and between the Mining Trustees of the Choctaw and Chickasaw Nations and the Ardmore Coal and Power Company, covering 960 acres of coal lands in the Chickasaw Nation described in your letter and the application of said company approved by the Secretary June 24, 1902; also transmitted the bond of said company in the sum of \$50,000, with the United States Fidelity and Guaranty Company as surety, dated July 5, 1902, and a certified copy of the articles of agreement and incorporation of said coal company.

The Acting Commissioner of Indian Affairs forwarded the papers August 20, 1902, and concurred in your recommendation that the lease and bond be approved.

They have been this day approved. Three parts of the lease and a copy of the Acting Commissioner's letter are inclosed herewith.

Respectfully,

Thos. Ryan  
Acting Secretary.

4 inclosures.

(Endorsed) Union Agency No. 4690.

Recd. Aug. 30, 1902 Office of U.S. Ind. Insp. for I.T. Washington, Aug. 22, 1902. Secy----Lease of Ardmore Coal and Power Company APPROVED.----



162  
DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

COMMISSIONERS:

HENRY L. DAWES  
TAMS BIXBY  
THOMAS B. NEEDLES  
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH.  
SECRETARY.

Muskogee, Indian Territory,

September 26, 1902.

William O. Beall,

Clerk in Charge,

Choctaw-Chickasaw Enrollment Division.

Dear Sir:

You are hereby instructed and directed to arrange for a field party to consist of the following employes of your division, to visit the Chickasaw and Choctaw Nations between October 15th and December 24th, 1902, inclusive:

Guy L. V. Emerson,  
George Dick Rodgers,  
G. Rosenwinkel,

Clerk in Charge.  
Clerk.  
Stenographer.

This party is delegated to the Chickasaw and Choctaw Nations for the purpose of receiving the applications for enrollment of persons whose names are on the tribal rolls of the Choctaw and Chickasaw Nations but who have not heretofore been enrolled by the Commission, commonly known as "delinquents" and such inter-married white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages, on or before July 1, 1902, and receiving birth affidavits of such infant children as may have been



born to recognized and enrolled citizens of the two tribes on or before September 25, 1902, and proofs of death of citizens and freedmen of the two nations previously listed for enrollment by the Commission but who died prior to September 25, 1902. This party will also obtain information to determine the status of all applicants for enrollment as citizens by inter-marriage of the two tribes on September 25, 1902.

The following appointments in the Chickasaw and Choctaw Nation, will be fulfilled by this party:

- Chickasha, Chickasaw Nation, October 15, to 17, inc.
- Pauls Valley, Chickasaw Nation, October 20 to 24, inc.
- Ardmore, Chickasaw Nation, November 3, to 7, inc.
- Tishomingo, Chickasaw Nation, November 10, to 14, inc.
- Ada, Chickasaw Nation, November 17, to 21, inc.
- Atoka, Choctaw Nation, November 24, to 28, inc.
- Kullitucklo, Choctaw Nation, November 24, to 28, inc.
- Antlers, Choctaw Nation, December 1, to 5, inc.
- Tuskahoma, Choctaw Nation, December 8, to 12, inc.
- Wister, Choctaw Nation, December 15, to 19, inc.
- South McAlester, Choctaw Nation, December 22, to 24, inc.

You will arrange for sufficient public notice of these appointments by circular letters addressed to the head of each family listed for enrollment as a citizen of the Choctaw and Chickasaw Nations and also by poster notices to be furnished all post-offices and such merchants in the two nations as you may be able to obtain information of.



The transportation of the party from place to place will be by rail and you will arrange as early as practicable for some suitable place at each of the appointments for the conduct of the business presented.

The members of the party will arrange for their board and lodging at the several appointments. Their actual and necessary traveling expenses from place to place and hotel bills will be paid by the Disbursing Officer of the Commission upon vouchers properly rendered.

You will also arrange for the employment of an irregular clerk at a salary of not to exceed three dollars a day at each of these appointments who is to be a notary public for the district in which the appointment is made, for the purpose of administering oaths and taking acknowledgments to birth and death affidavits and such other clerical duties as may be assigned to him.

You will furnish this party with a list of the "delinquents," in both the Choctaw and Chickasaw Nations with such information as your division may have concerning them.

Also with a list of the citizens by inter-marriage of the Choctaw and Chickasaw Nations and the records in all contested and doubtful testimony of Choctaw and Chickasaw enrollment cases where additional testimony is necessary in order for the rendition of proper decisions.

The field work of this party will be under your supervision and you will from time to time arrange to visit the party at the several appointments in order that such assistance as is necessary, may be rendered and that you may be in close touch



with the work being performed.

Respectfully,

(Signed) Tams Bixby

ACTING CHAIRMAN.

O.R.

T.B. NEEDLES.

COM'R.

(Endorsed) Union Agency # 51 Copy of instructions to Wm. O. Beall relative to enrollment party.



165  
D E P A R T M E N T O F T H E I N T E R I O R .

Washington.

ITD 1454-1902.

October 3, 1902.

United States Indian Inspector  
for the Indian Territory,  
Muskogee, Indian Territory.

Sir:

The Department is advised that the act of Congress approved July 1, 1902 (32 Stat., 641), entitled, "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," was ratified at the recent election held on September 25th last.

Your attention is invited to sections 56 to 63 inclusive, under the heading "Coal and Asphalt." You are requested to confer with the principal executives of said nations relative to the segregation of mineral lands and whether said nations desire to be represented in the ascertainment of what lands are mineral and ought to be segregated, and you are requested to make a report to the Department as to the method which ought to be pursued in the segregation of said lands. Inasmuch as under section 58 the segregation must be made within six months, it is desired that you take immediate action in the premises.

A copy of said act is inclosed herewith.

Respectfully,

Thos. Ryan

Acting Secretary.

1 inclosure.



-2-

(Endorsed) Union Agency No. 4899 Received Oct. 9, 1902 Office of U.S. Indian Inspector for Indian Territory. Washington, Oct. 3, 1902. Secretary.-----Should confer with executives of Choctaw and Chickasaw Nations relative to segregating mineral lands, and report concerning method which should be pursued.-----



DEPARTMENT OF THE INTERIOR.

I.T.D. 6688-1902. Washington.

November 1, 1902.

Special.

Commission to the Five Civilized Tribes,  
Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of a report from the Acting United States Indian Inspector for Indian Territory, dated October 22, 1902, relative to the segregation of coal and asphalt lands under the provisions of the act of July 1, 1902 (32 Stat., 641), ratifying and confirming the supplemental agreement with the Choctaw and Chickasaw Nations. Said report was forwarded by the Commissioner of Indian Affairs on October 29, 1902, and reference is made to departmental letter of October 16, 1902, addressed to you, directing your Commission to report what lands should be segregated under said act. The Commissioner recommends that your Commission be directed to request the mining trustees of the Choctaw and Chickasaw Nations to give any information which they may have relative to the subject-matter, and that upon the completion of the report you forward the same to the Department in the usual manner.

The Acting Inspector reports that in accordance with departmental direction, he requested the principal chief of the Choctaw Nation and the Governor of the Chickasaw Nation to advise him whether they wished to make any suggestions or to be represented in the segregation of the said mineral lands, and that  
20581.



they reported that the only representation that they deemed necessary was to have the mineral trustees furnish any information that they might have concerning the character of the lands to be segregated.

The Department concurs in the suggestions of the Commissioner, and you are also directed to make your report in triplicate, one copy for the use of the Commissioner of Indian Affairs, one copy for the Department, and one copy to be retained by the Commission.

In view of the limited time within which said segregation must be made, prompt action is desired. Copy of the Commissioner's letter is inclosed.

Respectfully,

E.A. Hitchcock.

Secretary.

(Endorsed) Union Agency No.20581 Recd. Nov. 4,1902 Department, Hitchcock, Washington, D. C. November 1,1902.----The Commission is directed to make its report, relative to segregation of coal and asphalt lands, in triplicate, and to request the mining trustees of the Choctaw and Chickasaw Nations to give any information they may have relative to the subject-matter.-----



Land  
65123-1902.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, November 6, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made October 29, 1902, by the Commission to the Five Civilized Tribes, acknowledging receipt of Department letters of October 3, 1902 (ITD-6016, 6017 and 6030), relative to the establishment of an allotment office for the Chickasaw Nation, Indian Territory.

The Commission states that at a session held on October 29, at which the subject was carefully canvassed, it was decided to locate the allotment office for the Chickasaw Nation at Tishomingo and the allotment office for the Choctaw Nation at Atoka, believing that the interests of the members of these two tribes and the requirements of the public service will best be subserved by these selections.

It is stated that Tishomingo is the capital of the Chickasaw Nation, the council grounds and seat of government of the Indians; that it is accessible by railroads and wagon roads; is well situated geographically; that it can accommodate the Commission in the matter of offices and boarding-houses; and has a good supply of water, wood and camping grounds for the full-bloods whose habits require these accessories.



The commission states that Atoka is an old Indian town having few commercial interests but surrounded by associations dear to the full-bloods -- a place at which they have been accustomed to congregate for many years and where suitable camping facilities may be had; that it is accessible to the general offices of the Commission and convenient to Tishomingo; and that while a town farther south and east in the Choctaw Nation would be more accessible to the full-bloods, none exists which affords, so well as Atoka, the facilities mentioned.

The office respectfully recommends that the Commission be advised that its report is approved.

Very respectfully,

Your obedient servant,

Commissioner.

(Endorsed) Union Agency No. 21980 Recd. Nov. 20, 1902 Department, Ryan, Washington, D. C., November 12, 1902.-----The Department approves the selections for location of land offices in the Choctaw and the Chickasaw Nations.-----



171  
DEPARTMENT OF THE INTERIOR.

Washington.

ITD 6913-1902.

November 12, 1902.

Commission to the Five Civilized Tribes,

Muskogee, I.T.

Gentlemen:

October 29, 1902, the Acting Chairman reported that at a session of the Commission held on the same date, it was determined to locate the allotment office for the Chickasaw Nation at Tishomingo and the allotment office for the Choctaw Nation at Atoka. He points out the advantages of the location of each of said towns, and states that the selections made will best meet the requirements of the public service and the interests of those members of the two tribes whose welfare should receive your greatest care.

Forwarding the Acting Chairman's communication on November 6, the Commissioner of Indian Affairs recommends you be advised that the same is approved.

The Department approves the selections for establishing allotment offices, as recommended. A copy of the Commissioner's letter is inclosed.

Respectfully,

Thos. Ryan

Acting Secretary.



172

DEPARTMENT OF THE INTERIOR.

Washington.

ITD 7281-1902.

November 29, 1902.

United States Indian Inspector  
for the Indian Territory,  
Muskogee, Indian Territory.

Sir:

The Department is in receipt of a communication from Acting Inspector Zevely, dated November 17, 1902, transmitting draft of regulations under the provisions of section 48 of the supplemental agreement with the Choctaws and Chickasaws, approved July 1, 1902, relative to payment for improvements by members of the Choctaw or Chickasaw Nations, who are occupants of land set aside for townsite purposes, under the provisions of the act of May 31, 1900.

The commissioner of Indian Affairs forwarded said draft on November 25, 1902, and suggests that paragraph second of said regulations should be changed so as to require that claimants for compensation for improvements shall show that they are citizens of the Choctaw or Chickasaw Nations. The amendment suggested is as follows;

"Claimants to compensation under the provisions of section 48, shall make application therefor to the United States Indian Inspector for Indian Territory, at Muskogee, Indian Territory, setting forth the facts in full in the form of an affidavit, with a statement that he or she is a citizen of the Choctaw or Chickasaw Nations; that he or she is the actual occupant of the lands described."

With said change he recommends that the regulations be approved.



The regulations have been examined and said second paragraph has been redrafted to conform substantially to the suggestion made by the Commissioner, and as amended have been approved and are returned herewith, together with the other papers transmitted, and a copy of the report of the Commissioner of Indian Affairs.

You will submit the name of some competent person for appointment by the Department, also call upon the tribal executives to appoint some one, as provided in said regulations.

Respectfully,

E. A. Hitchcock.

Secretary.

7 inclosures.

(Endorsed) Union Agency No. 5276. Received. Dec. 6, 1902. Office of U.S. Indian Inspector for Indian Territory. Washington, Nov. 29, 1902. Secretary. --- Approves regulations relative to compensating Choctaw and Chickasaw Indians who are occupants of land set aside for townsite purposes; should submit name of person for appointment, and call upon tribal executives to appoint.



DEPARTMENT OF JUSTICE  
CHOCTAW AND CHICKASAW CITIZENSHIP COURT,  
INDIAN TERRITORY,

So. McAlester, Ind.Ter. Dec. 3rd, 1902.

Hon. Indian Inspector,  
Muscogee, I. T.

Sir:

In answer to your request of Dec. 1, 1902. I  
herewith inclose copy of letter from the Secretary of the  
Interior, Dated Oct. 31, 1902.

Hope to hear from you in regard to this matter.

Very respectfully,

James B. Cassada,

Clerk.

(Endorsed) Union Agency No. 5447. Received Jan. 3, 1903. Office of U.S.  
Indian Inspector for Indian Territory. Washington, Dec. 23, 1902.  
Secretary----Indian Agent should pay expenses of Choctaw and  
Chickasaw citizenship court; Inspector should make reports relative  
thereto.



170

DEPARTMENT OF THE INTERIOR,

Washington.

ITD 7846-1902.

December 23, 1902.

United States Indian Inspector  
for the Indian Territory,  
Muskogee, Indian Territory.

Sir:

The Department is in receipt of the Acting Inspector's communication of December 5th last, transmitting therewith a communication from Mr. James B. Cassada, clerk of the Choctaw and Chickasaw Citizenship Court, with inclosed voucher showing an expenditure of \$39.75 for express and drayage charges on stationery and supplies from Washington, D. C., to South McAlester, Indian Territory, for the use of said court. The Acting Inspector states that he has received no instructions that the accounts of said court should be transmitted through his office, and desires to know the Department's wishes in the matter.

You are advised that this expense was doubtless incurred under the \$5,000 appropriation, "Contingent Expenses, Choctaw and Chickasaw Citizenship Court," provided for in the act of July 1, 1902 (32 Stat., 648, Sec. 33); that expenses incurred by said court under said section are to be paid by the United States Indian Agent at Union Agency; and that you are expected to make reports in regard thereto, to be transmitted through the Commissioner of Indian Affairs.

Respectfully,

Thos. Ryan,  
Acting Secretary.



176

D E P A R T M E N T O F T H E I N T E R I O R.      E A F.  
W A S H I N G T O N.

ITD. 148-1903.

January 13, 1903.

Commission to the Five Civilized Tribes,  
Muskogee, I.T.

Gentlemen:

The Department is in receipt of the Acting Chairman's communication of December 29, 1902, acknowledging receipt of departmental letter of December 22 relative to the schedule adopted by the Commission for the valuation of lands in the Choctaw and Chickasaw Nations, in which you were requested to give public notice of the classification of each forty-acre tract in order that members of the nations might know how much land they may allot and not hold more than their proportionate share.

The Acting Chairman reports that he knows of no practicable way by which such public notice can be given, except by the method now being pursued of furnishing the classifications through the mail to all who apply therefor; that it would be impracticable to publish the classification in the newspapers for the reason that it is not possible to provide against typographical errors, and misinformation supplied would result in embarrassment to all concerned, and that the expense of newspaper publication would be very great.

The Commissioner of Indian Affairs (Sic) forwarded said communication on January 7, 1903, and stated that section 19 of the supplemental Choctaw and Chickasaw agreement prescribes a heavy penalty if a citizen is convicted of holding more land than his pro rata share, and that "the office believes that



general publicity should be given to the classification, but inasmuch as the Commission seems to think that it is impracticable to give the classification of each 40 acre tract, it is recommended that the Commission's report be approved."

The Department approves the Acting Chairman's report. A copy of the Commissioner's letter is inclosed.

Respectfully,

Thos. Ryan.  
Acting Secretary.

1 inclosure.

(Endorsed) # 1543, Commission to Five Tribes. Received Jan. 20, 1903. Department, Ryan, Washington, D. C., Jan. 13, 1903. Approving report of Acting Chairman rel. to schedule adopted by Com. for valuation of lands in Choctaw and Chickasaw Nations, and method of giving public notice to allottees.



198

DEPARTMENT OF THE INTERIOR.  
WASHINGTON.

ITD 606-1903.

CMR.

February 14, 1903.

Commission to the Five Civilized Tribes,  
Muskogee, Indian Territory.

Gentlemen:

The act of July 1, 1902 (32 Stat., 641), section 11,  
declares:--

"There shall be allotted to each member of the Choctaw  
and Chickasaw tribes, as soon as practicable after the approval  
of the Secretary of the Interior of his enrollment as herein  
provided, land equal in value to three hundred and twenty acres  
of the average allottable land of the Choctaw and Chickasaw Nat-  
ions," etc.

Section 25 provides for the applications for allotments by Choctaw  
and Chickasaw citizens or freedmen before your Commission "after  
the opening of the land offices for allotment purposes," in said  
nations.

The Department has been advised that considerable unrest  
exists from the fact that offices have not been opened in said nat-  
ions at Atoka and Tishomingo, the places agreed upon. In your  
last monthly report you state that-

"While buildings are being prepared at both of these places  
for the use of the Commission it is probable that they will not be  
in a condition for occupancy before the first of March, and while  
no definite statement can be made at this time relative to the pro-  
bable date of the opening of these offices the Commission believes  
that from existing conditions such a step would not be advisable be-  
fore the middle of March of the first of April."



179

You further state in said report that the establishment of said land offices requires a complete duplication of all the records of your Commission relative to the enrollment of the citizens and freedmen of the two nations, and that said records are being prepared in order that they may be in readiness at the time of the opening of the two land offices.

In view of the anxiety of the Indians to file their applications for the lands to which they may be entitled, the Department desires to impress upon your Commission the very great importance of opening said offices at the earliest practicable time. It would seem that the offices might be opened for the receipt of applications from those citizens or freedmen who have been duly enrolled, even though all the records relative to the members of said nations had not been fully completed. You are requested, therefore, to make immediate report when your Commission will be able to open said offices, giving all the facts which may operate to delay the opening of said offices.

Respectfully,

E. A. Hitchcock

Secretary.

(Endorsed) # 4785. Commission to Five Tribes, Muskogee, Oklahoma  
Received Feb. 24, 1903. Department, Hitchcock, Washington, D. C.,  
Feb. 14, 1903. Relative to opening of Choctaw and Chickasaw  
Land Offices. Wishes report from Commission as to probable causes  
for delay.



180

D E P A R T M E N T O F T H E I N T E R I O R.  
O F F I C E O F I N D I A N A F F A I R S ,  
W A S H I N G T O N .

May 13, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith for your consideration a letter of the Acting Inspector for Indian Territory of the 25th ultimo acknowledging receipt of Department letter of March 19th (I.T.D. 6674--1902), instructing the Inspector's office to advise the Chief Judge of the Choctaw and Chickasaw Citizenship Court that the contract under which he secured suitable quarters in which to hold the sessions of that court had not been received by the Department, and transmitting contract.

The Acting Inspector now states that the instructions of the Department were complied with, and he encloses a communication from the Chief Judge dated the 21st ultimo with which the Judge encloses the contract entered into with Messrs. Martin Curran and Lance Lamb, doing business under the firm name of Curran and Lamb Trading Company. Mr. Zevely calls attention to the fact that this contract describes the rooms occupied by the Choctaw and Chickasaw Citizenship Court, together with the furniture which the landlord agrees to supply. The rental is fixed at \$95.00 per month, to include furniture, fixtures, fuel, light, and ice. While the signatures are not witnessed as is customary, each person has acknowledged the execution of the lease before



a notary public. The contract covers a term to commence December 1, 1902, and to continue at the option of the Chief Judge.

Mr. Zevely recommends the approval of this rental contract, with the request that authority be granted the United States Indian Agent at Union Agency to pay the amounts due thereunder, namely, \$95.00 per month.

It appears from correspondence that has passed through this office that the Chief Judge of the Choctaw and Chickasaw Citizenship Court, Hon. Spencer B. Adams, was authorized by the Department by wire to enter into negotiations and make a contract for quarters, and this contract now submitted seems to be a fulfillment of that authority.

I concur in the recommendation of the Acting Inspector that the contract be approved by the Department.

Very respectfully,

A.C.Tonner,

Acting Commissioner.

E.B.H.(S)

(Endorsed) Union Agency # 6431 Received May 25, 1903. Office of U.S. Indian Inspector for Indian Territory. Washington, My 18, 1903. Secretary. Approves rental contract covering quarters of Choctaw and Chickasaw Citizenship Court.



Land.  
61906-1903.

Department of the Interior,  
OFFICE OF INDIAN AFFAIRS,  
Washington.

October 7, 1903.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the communication of Mr. W. S. Fears, dated at Muskogee, I. T., September 25, 1903, a reply to office letter dated March 19, 1903, in which demand was made for the payment of the tribal damages assessed against the Southwestern Telephone Company for its right of way over the lands of the Choctaw and Chickasaw tribes of Indians, as approved by the Department March 12, 1903, amounting to the sum of \$233.11.

Mr. Fears states that the company above named was incorporated for the purpose of building two lines of telephone; one from Muskogee to Tulsa, and the other from Atoka to Ardmore, but by reason of the fact that other telephone companies have secured the right-of-way along the same lines and are in control of the exchanges at the points located thereon, the Southwestern Telephone Company has abandoned its purpose to locate its lines and nothing has been done nor is likely to be done in this direction. Mr. Fears requests, therefore, to be relieved of any liability on account of the damages so assessed against



the said company.

It is recommended that the communication herewith be forwarded to the U.S.Indian Inspector for the Indian Territory for report as to whether the company named therein has constructed any portion of its lines of telephone authorized by the approval of maps of location January 30, 1903.

Very respectfully,

W.A.Jones

Commissioner.

C.F.H.

H.S.R.

(Endorsed) Union Agency No.7743 Received Oct 27, 1903. Office of U.S.Indian Inspector for Indian Territory.Washington, Oct. 12, 1903. Secretary.----Encloses letter of W.S.Fears of Musko-gee, asking that right of way of Southwestern Telephone Co., be cancelled, directing that report be made as to whether any part of line has been constructed.----



COMMISSIONERS:  
TAMS BIXBY,  
THOMAS B. NEEDLES,  
C. R. BRECKINRIDGE.

Department of the Interior,  
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. BEALL,  
Secretary.

Address only the  
Commission to the Five  
Civilized Tribes.

Muskogee, Indian Territory,  
August 6, 1904.

Commissioner in Charge,  
Chickasaw Land Office,  
Tishomingo, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of July 21, 1904, in which you invite attention to the fact that on the list of Chickasaws and Chickasaw Freedmen furnished your office whose enrollment had been approved for a period of more than one year but who had not selected their allotments, there are a number of persons whose post offices are given as being in the Choctaw Nation. You also state that a great many Choctaws are living in the Chickasaw Nation, whose names have not been furnished for the use of the Chickasaw field party. This, you urge, will necessitate going over the same ground twice, as the Chickasaw field party can arbitrarily allot only citizens and freedmen of the Chickasaw Nation and will of necessity have to omit all Choctaw citizens and freedmen.

In reply, you are advised that, since the receipt of your letter, your office has been furnished with a list of citizens and freedmen of the Choctaw Nation whose enrollment has been approved for a period of more than one year but who have not



selected their allotments, and a similar list of Chickasaw citizens and freedmen will be forwarded the Choctaw Land Office in the near future.

You are directed to advise the Chickasaw field party to locate the improvements of Choctaw citizens and Choctaw freedmen residing in the Chickasaw Nation, as well as those of Chickasaw citizens and Chickasaw freedmen. The Choctaw field party has also been furnished with a list of Chickasaw citizens and Chickasaw freedmen whose enrollment has been approved for a period of more than one year and who have not selected allotments, and have been directed to locate the improvements of such Chickasaw citizens and Chickasaw freedmen as reside in the Choctaw Nation, with a view of making arbitrary allotments to such citizens and freedmen in the Choctaw Nation.

Respectfully,

T.B.Needles.

Commissioner in Charge.

(Endorsed) Union Agency No.3174.Received Aug.9,1904 Commission to the Five Civilized Tribes,Muskogee,Indian Territory.Regarding-- --Chickasaws and Chickasaw Freedmen whose enrollment has been approved for a period of more than one year but who have not selected their allotments--also Choctaws.-----



186

DEPARTMENT OF THE INTERIOR.  
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory,

September 30, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Dear Sir:

There are returned you herewith, signed by me, the following arbitrary allotments made at your office and forwarded with your letter of September 27, 1904:

Choctaws by Blood.

Martha Wilburn	6701
John C. Wilburn	6705

Chickasaws by Blood.

Frank Owens	152
Luffie Brown	459
Cleveland Wisdom	608
Betty Killcrease	724
Sim Killcrease	725
Nelson Killcrease	726
Dixon Killcrease	727
Jackson Porter	751
Charley Allen	1029
Paralee Allen	1031
Agnes Stephens	2462
Ben Sealy	1044
Susie Porter	2689



Melton Browning	4053
Clara Allen	1032
Chickasaw Freedmen.	
Sophia Harris,	42
Nelson Clark	223
Clifford Clark	262
Lemuel Brown	395
Aaron Blue	396
Fleet Clark	406
Jesse Clark	419
Albert Clark	420
Tony Brown	429
Sookey Clark	503
Harriett Black	514
Calvin Black	528
Harriett Kemp	1130
Lewis Green	3425
Lafayette Green	3426

The allotment to Isaac Kowey has been made the subject of a separate communication.

Respectfully,

Tams Bixby  
CHAIRMAN.

AB 6-30

Endorsed) Commission to Five Civilized Tribes # 4080, Received Oct. 3, 1904. Muskogee, Indian Territory. Relative to allotments.



188

D E P A R T M E N T O F T H E I N T E R I O R.  
C O M M I S S I O N T O T H E F I V E C I V I L I Z E D T R I B E S .

Muskogee, Ind. Ter.

Oct. 14, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 1st instant, in which you advise that it has come to the knowledge of your office that Hon. T. C. Humphreys, Judge of the United States Court for the Central District of Indian Territory, had recently disapproved the appointment of W. A. Waldock as guardian of a large number of minor children in the Choctaw and Chickasaw Nations. You suggest that the Commission is probably aware that the appointments of guardians made by the Clerk of the United States Court during vacation are subject to the approval or disapproval of the Judge of the District.

It seems that your office has heretofore accepted such letters of guardianship as issued by the Clerk of the United States Court and have permitted filings to be made by such guardians, but in view of the fact that these appointments are not final until approved by the Judge, you suggest that considerable confusion might be avoided by your office refusing to recognize the appointment of guardians until their approval by the Judge.



I cannot see that any confusion would arise by the recognition of guardians made by the Clerks of the United States Court during vacation, inasmuch as it is apparent to me that prior to the approval or disapproval of such appointments by the Judge of the District, the guardian appointed by the Clerks of the Court would have full authority and power to act.

I have, however, this day directed a communication to the United States Judges for the Central and Southern Districts of Indian Territory, requesting them to direct the Clerks of their several Courts to advise the Commission of the disapproval by them of the appointments of guardians made by their clerks during vacation.

Your office will be advised from time to time as this information is furnished the Commission.

Respectfully,

T. B. Needles.

Commissioner in Charge.

(Endorsed) # 4275. Received Oct. 17, 1904. Commission to Five Tribes. Muskogee, I.T. Relative to appointments by T. C. Humphreys, Judge of U.S. Court. Guardians.



190  
Muskogee, Ind. Ter.

October 15, 1904.

Hugo Real Estate & Abstract Co.,

Hugo, Ind. Ter.

Gentlemen:

Receipt is hereby acknowledged of your letter of September 19th in which you request that you be furnished with plats showing the lands allotted to a number of citizens in the Choctaw and Chickasaw Nations, stating as a reason for desiring this information that you have been appointed, and are acting, as guardians and administrators for the estates of such persons.

In reply to your letter you are informed that the matter of your request was the subject of consideration by the Commission at a recent meeting held at Muskogee, Indian Territory, and it was deemed inadvisable and inexpdient to furnish the same.

The Commission, as early as practicable after the selection of allotments in the Choctaw and Chickasaw Nations, prepares and issues to the persons by whom the selection was made, a certificate of allotment. These certificates accurately describe the land as allotted, the appraised value thereof, and gives the correct name and roll number of the allottee.

The jurisdiction of this Commission extends only to the matter of making allotments in the Choctaw and Chickasaw Nations to the citizens and freedmen of those two tribes whose enrollment has heretofore been approved by the Secretary of the Interior. We have no jurisdiction or authority whatever over



the matter of the disposition of the estates of said allottees of the management thereof.

Apparently the duty of the Commission is entirely fulfilled when the allotment has been made and the certificate therefor issued for the express purpose of furnishing the allottee or the person acting in behalf of the allottee at the time of the selection was made, with full information as to the allotment, and if subsequent to the selection some other person is authorized and empowered to manage the estate, it is apparently a matter over which the Commission has no authority.

For the reasons above set forth, your request is denied as have been like requests made by numerous individuals and corporations who have recently been appointed guardians and administrators of the estates of Choctaw and Chickasaw citizens and freedmen.

Respectfully,

Commissioner in Charge.



192

DEPARTMENT OF THE INTERIOR.  
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Ind. Ter.

Oct. 27, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory,

Dear Sir:

There is inclosed herewith, for your information, letter from the Deputy Clerk of the United States Court, Central District, Antlers, Indian Territory, with which he transmits to the Commission a list of persons appointed by him as administrators and guardians of estates of Choctaw and Chickasaw citizens during the recess term of said court and which were subsequently revoked at the following term of court.

As to the persons named in this list who may appear before your office in the capacity of administrators or guardians of the persons named you will refuse to recognize such letters of administration or guardianship.

In this connection your office is also directed, in the future, to require from persons appearing before your office with letters of guardianship or administration issued by the United States Court in Indian Territory, that they satisfactorily establish the fact that where the appointment has been



made during the vacation of the court the same has been subsequently confirmed at the following term of court by one of the United States Judges in and for the Central or Southern District of the Indian Territory.

Respectfully,

Tams Bixby.

Chairman.

(Endorsed) # 4504 Received Oct. 28, 1904. Commission to Five Tribes, Muskogee, Ind. Ter. Relative to appointment of administrators and guardians of estates of Chotaw and Chickasaw citizens.



197  
April 21, 1905

M E M O R A N D U M.

In an opinion in the case of Mary Elizabeth Martin of March 24, 1905, approved by the Secretary of the Interior, the Interior Assistant Attorney General of the Interior Department held that a child of white intermarried citizens, the father having previously married a Choctaw and the mother a Chickasaw, is entitled to enrollment in either the Choctaw or Chickasaw Nations. The ruling will admit several hundred full blood white children to property in the Indian Nations, and as each share is valued at about \$7,000 this ruling, if executed, will cause a loss of several million dollars to the nations.

Congress has declared the Citizenship rolls as approved by the Secretary of the Interior shall be final. (30 Stat. 503, 31 Stat. 236)

The conclusion of the Assistant Attorney General is based upon the case of Robinson v. The Choctaw Nation decided by the United States court, Central District, Ind. Ter., and the following statement:

In my former opinion herein it was said that "allegiance of birth is obtained by succession to the allegiance of the parent. I am now of opinion that rule so stated is accurate when considered in the light of the particular facts in the applicant's case, viz: That by article XXXVIII of the treaty the parents by their intermarriage were accorded all the rights and were subject to all the liabilities," as though he or (she) was a native Choctaw", and continued to the applicant's birth to be resident within the Choctaw Nation.



In the Robinson case the question whether a Choctaw law, decitizenize d an intermarried citizen who upon the death of his Indian wife married a white person conflicted with article 38 of the treaty of 1866. (14 Stat. 779) which follows:

Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nation, or who has been adopted by the legislative authorities, is to be deemed a member of said Nation, and shall be subject to the laws of the Choctaw and Chickasaw nations, according to his domicile, and to prosectuion and trial before tribunals, and to punishment according to their laws, in all respects as though he was a native Choctaw or Chickasaw.

The court held the two to be in conflict and that Robinson was entitled to be enrolled. By way of dictum the court continued:

I hold that the offspring of such a marriage would be entitled to be enrolled; the father being a lawful citizen, his children would follow his citizenship, and by inheirtance take any property rights he may have acquired thereby; but I do not think that the commissioners who negotiated the treaty ever contemplated that it should extend further and enable a white man, whose Indian wife should have died, to be a condition that by second marriage to a white woman he could, by virtue of such marriage, confer on his white wife citizenship so far that in case of his death she might remarry and confer on her white husband and her children by her second marriage the rights of Choctaw citizenship.



The United States Court, Southern District, Ind.Ter., held that the white spouse of an intermarried citizen and their children are entitled to enrollment, and that a non-citizen spouse marrying an intermarried citizen might confer citizenship by subsequent marriage, and so on ad infinitum.

These decisions, except as regard Robinson himself, were never enforced as they were overruled in the Citizenship Court by the Bounds Case. It was there held that a non-citizen spouse of an intermarried citizen and their children were not entitled to enrollment. The Dawes Commission in the Kimberlin case, and the Assistant Attorney General in the Archerd case have held that a non-citizen spouse of an intermarried citizen is not entitled to enrollment.

Citizenship by intermarriage did not exist in the Choctaw and Chickasaw Nations prior to the treaty of 1866.

Laws of the nations passed before the treaty gave white persons marrying citizens by blood qualified rights; these clearly indicate citizenship by intermarriage was not recognized.

Section 38 of the treaty of 1866 fixed the status of citizenship by intermarriage.

From that section alone, children(Sic) of an intermarriage citizenship by a non-citizen spouse derive tribal citizenship if at all.

The acts of Choctaw and Chickasaw legislatures passed in 1875-6 decitizenizing intermarried citizens who abandon their spouses or marry a non-citizen upon the death of the Indian spouse,



clearly indicate that the tribes have not interpreted section 38 as conferring citizenship upon non citizens spouses of inter-married citizens and their children. The tribes themselves have never recognized the right of citizenship in such parties.

Mr. Leupp says the opinion of the Assistant Attorney General "overturns all the holdings of this office (Commissioner of Indian Affairs) and of the Department of the Interior going back for many years."

The rule of construction applied to Indian treaties is this: The positive language of a treaty should not be disregarded merely because it is deemed an injustice has been done the Indians. But if the language of the treaty should not be disregarded merely because it is deemed an injustice has been done the Indians. But if the language of the treaty is susceptible of two interpretations, one favorable to the Indians which by their acts they have shown to be their understanding of the treaty, and the other adverse to their interests, the former should be adopted unless all the circumstances surrounding the negotiations clearly indicate the latter was intended. See United States v. Choctaw, etc. Nation, 179 U.S. 495, and other cases therein cited.

If this ruling of construction is followed the decision of the Secretary of the Interior (Sic) is clearly wrong. The language of section 38 is susceptible of the interpretation that intermarried citizenship is a right personal and not passing to a subsequent white spouse and their children. The Ind-



ians have clearly indicated that to be their understanding of the treaty. I have been unable to discover any circumstances indicating a different intention.

The great weight of decisions by the various tribunals is to the effect that section 38 of the treaty does not confer upon intermarried citizens all the privileges and rights of citizenship by blood; otherwise a non citizen spouse of an intermarried citizen would be entitled to enrollment.

Where is the line of demarcation? I can see no reasonable ground for providing that the children of an intermarried white by a white spouse should be given citizenship and not the white spouse. I think that a fair and reasonable construction of section 38 is that intermarried citizens are to be deemed members of the nation for the purpose of giving them Personally all the rights and privileges of citizens by blood, but not for the purpose of conferring citizenship on others.

The property in which citizens share was originally intended for Indians alone. It was a marked innovation when they permitted white intermarried persons to share in it; it is almost inconceivable that it was intended to confer upon white intermarried persons and their white spouses and children the right to admit to a share of the property as many white spouses and children as they might have. Certainly no doubtful words should be construed as conferring that right.

A sub committee of the Senate Committee on Indian Affairs has inserted the following in an act under consideration.

Provided, further, That no child the issue of two white parents, one of whom is enrolled or claims enrollment by reason



of a prior intermarriage with a member of a tribe, shall be entitled to enrollment or to an allotment heretofore made void and vacated. Provided, further, that nothing herein shall apply to the intermarried whites in the Cherokee Nation, whose cases are now pending in the Supreme Court of the United States.

(Endor sed) Union Agency # 867 Received Office of U.S. Indian Inspector for Indian Territory. CHOCTAW-CHICKASAW ENROLLMENT. Should Commissioner proceed to hear applicants upon the merits of their claims who allege that they are white persons, descendants of intermarried citizens of Choctaw and Chickasaw Nations?

(See opinion of Assistant Attorney General for Department of May 24, 1905, in case of Mary Elizabeth Martin.)

Proceedings under this opinion was suspended by Departmental instructions of April 21, 1905 ).



DEPARTMENT OF JUSTICE.

UNITED STATES MARSHAL'S OFFICE,  
Central District, Indian Territory,  
South McAlester,

May 18th, 1905.

To the United States Indian Agent,  
Muskogee, Indian Territory.

Dear Sir:-

I take pleasure in recommending Mr. Odus L. Collins as a man of truth, honesty and uprightness. He is qualified to fill any appointment he may make application for; he has worked for me as bailiff of the Courts in charge of the Grand Jury and is now as a deputy Indian Sheriff of Tobucksy County, and I learn that he is very efficient in his work. His work as bailiff was very satisfactory to all concerned.

Any favors shown him in your department for his appointment will be highly appreciated by me.

Very respectfully,

Geo. K. Richard

United States Marshal.

(Endorsed) Union Agency No. 29082. Received May 25, 1905 Office of U.S. Indian Agent, Muskogee, Ind. Ter. Odus Lynn Collins, Muskogee, I.T.-----encloses recommendations and makes application for position as U.S. Indian Policeman.-----



201

WILLIAM H. FULLER,  
Lawyer,  
South McAlester, I.T.

May 18th, 1905.

To The United States Indian Agent.

Muskogee, Indian Territory.

Hon. Sir:-

Mr. Odus Lynn Collins, an educated Chickasaw Indian is desirous of securing employment as United States Indian Police. He is qualified and experienced in the way of an officer for his country. He has a good education, having been educated in schools of Texas, and at Richmond Va., and Sweet Spring, Mo.

He speaks fluently both Choctaw-Chickasaw and English languages and he has made warm friends during his staying here in the City of South McAlester. He has extensive acquaintance among his tribes in the Choctaw-Chickasaw Nations. He has considerable experience about the United States Court as an interpreter and now he is one of the bailiffs in charge of the United States grand Jury this term, under United States Marshal Pritchard for the Central District of the Indian Territory located here in South McAlester, he is highly recommended by the officials of the two Nations to whom he is personally known.

A few months past, he was an employee in my office and I find that his works proves satisfactory in every respect; his habit, character and abilities are splendid, therefore, I have no fear but what you will find him a valuable young man for the appointment of the Indian Police. Trusting, that you will be able to place him in the department, and same will be highly appreciated by me.

Very respectfully,  
W.H. Fuller.



C.H.BIGELOW, President,  
W.S.TIMBERLAKE, Treasurer,  
A.W.PERRY, Secretary,  
F.R.BIGELOW, Asst.Secretary.

FIRE AND MARINE INSURANCE COMPANY

Assets over \$3,700,000.00

TO WHOM IT MAY CONCERN:-

I have known the bearer, Mr.Odus Lynn Collins, from childhood. I know nothing of him but what is commendable. I know him to be a deserving young man.

He served as U.S.District Court Bailiff while I was Foreman of the Grand Jury, in May, 1905, and was very attentive to his duties.

I heartily recommend him, and any favors shown him will be very much appreciated.

J.D.Chastain.

We, the members of the Grand Jury, of the United States Court, of the May, 1905, term, do hereby endorse the above.

W.W.Barnett.  
J.L.Weaver.  
D.J.Gray.  
T.D.Bell.  
M.C.Lee.  
W.J.Oglesby.  
M.H.Royce.  
Walter Pate.

T.W.Conners  
M.A.Dilherk.  
S.B.Rusk.  
H.J.Stanley.  
L.T.West.  
A.E.Reed.  
Andy Moten.



South McAlester, Indian Territory,

May 19, 1905.

The Honorable

The United States Indian Agent,

Muskogee, Indian Territory ,

Sir:

I hereby formally tender my application for the position of "Indian Policeman" in the Choctaw and Chickasaw Nations.

It will no doubt assist you in determining my qualifications for the position by stating that I have had the advantage of a good education. I read and write the Choctaw, Chickasaw and English languages fluently; have frequently acted as interpreter for the United States Court here; am at present a bailiff in the Court and also deputy Sheriff of Tobucksy County. I am not addicted to use of intoxicating drinks and have always tried to conduct myself as becomes a gentleman and will do this at all times if given the position which I seek.

There are enclosed herewith letters from some of the prominent citizens of South McAlester testifying as to my ability and character. If you desire other recommendations I can and will be glad to secure them.

Trusting that you will give me an opportunity to demonstrate my ability to as an Indian Policeman, I am,

Respectfully yours,

Odus Lynn Collins.

Will go to Pauls Valley if desired. P.O.address Muskogee, at present. 29082.



South McAlester, Indian Territory.

May 19, 1905.

Hon. D. H. Kelsey,

United States Indian Agent,

Muskogee, Indian Territory.

Dear Sir:

This letter will be handed to you by Mr. Odus L. Collins, who is seeking a position as Indian Policeman. Mr. Collins is an exceptional bright young Indian and could no doubt fill the place he wishes in a credible manner to all concerned. He has a first class education and has had some experience along the lines of the duties of an Indian Policeman.

Anything that you can do for him will be appreciated by the writer,

Very truly yours,

G. Rosenwinkel.



EXECUTIVE OFFICE, CHOCTAW NATION  
Green McCurtain, Principal Chief

Kinta, I.T.  
May 20, 1905.

Honorable J. Blair Shoenfelt,  
United States Indian Agent,  
Muskogee, Indian Territory.

Sir:--

I have been informed that it is the intention of your office to place a number of newly appointed Indian Policemen in the field.

This being true, I take pleasure in recommending the appointment of O.L. Collins, of S. McAlester, Ind. Ter., for one of these places. Mr. Collins is a Chickasaw Indian, but speaks the Choctaw language and from my knowledge of him it is my opinion that he will make you an efficient officer if appointed.

Trusting you may favorably consider his application, I am,

Very respectfully,  
Green McCurtain,  
Prin. Chief. C.N.



Muskogee, Indian Territory

June 10, 1905.

Hon. D. H. Kelsey,  
United States Indian Agent,  
Muskogee, I.T.

Hon.Sir:-

Since I had file on application for appointment of Indian Policeman, I have not to this day been able to hear anything from the same.

So I will write you a letter to tender my application, and wish to hear from you regarding at your earliest convenient, I am,

Yours very truly

Odus Lynn Collins.

L.B.1147  
City.

(Endorsed) Union Agency No.32047 Received Jun.10,1905 Office of U.S.Indian Agent,Muscogee, Ind.Ter.June 10,1905.Odus Lynn Collins, Muskogee,I.T.-----States he has not been able to hear from his application for appointment as Policeman.-----



207

WILLIAM BUSBY,  
South McAlester, I.T.

11/25/05.

My dear Mr. Bixby.-

Has anything further been done with reference to the consolidation of the Ardmore and Atoka land offices. I am very anxious if this consolidation is made to land this for South McAlester.

I will do everything in my power to make things satisfactory. Any information you can give me will be appreciated and treated strictly confidential.

Yours very truly,

Wm. Busby.

Hon. Tams Bixby,  
Muskogee, I.T.

(Endorsed) Union Agency No. 474 Relative---Asking if anything further has been done with reference to the consolidation of the Ardmore and Atoka land offices.----



SECRETARY'S OFFICE

DEPARTMENT OF THE INTERIOR

I.T.D.2368-1906.

February 13, 1906.

U. S. Indian Inspector  
for the Indian Territory,  
Muskogee, Ind. Ter.

Sir:

There is enclosed for your information and guidance  
an opinion of the Assistant Attorney General, dated February  
9, 1906, (9495-1905, 4718-1904, I.T.D.) in which he ex-  
presses the opinion "that the restriction upon alienation of  
homesteads of Choctaw and Chickasaw allottees terminates with  
the life of the allottee."

Respectfully,

Thos. Ryan

First Assistant Secretary.

Through the  
Commissioner of Indian Affairs.  
1 enclosure.

(Endorsed) Union Agency No.13410 Received Feb.20,1906 Office of  
U. S. Indian Inspector for Indian Territory.Washington,February  
13,1906.Secretary.----Encls for information and guidance an opinion  
of the Asst. Atty. Gen., rel to termination of restriction upon  
alienation of homesteads of Choctaw and Chickasaw allottees.----



209

DEPARTMENT OF THE INTERIOR,  
Washington.

I.T.D.993-1906.  
3900-1906.

March 10, 1906.

United States Indian Inspector

for Indian Territory, Muskogee, Ind. T.

Sir:

On February 27, 1906, you transmitted a report, forwarding a communication from the United States Indian Agent, Union Agency, Ind. T., in reference to the per capita payment to Choctaw and Chickasaw Indians of townsite funds in cases where the United States Courts in the Indian Territory have appointed guardians for minors, other than their natural guardians.

On March 5, 1906 (Accounts 19735), the Indian Office forwarded your report without recommendation.

You are informed that said report is hereby approved.

Respectfully,

Thos. Ryan

First Assistant Secretary.

Through the Commissioner of Indian Affairs.

(Endorsed) Union Agency No. 13620 Received Mar. 15, 1906 Office of U.S. Indian Inspector for Indian Territory. Washington, March 10, 1906. Secretary.-----Approves report in reference to the per capita payment to the Choctaw and Chickasaw Indians of townsite funds.-----



DEPARTMENT OF THE INTERIOR,

Accounts  
31444/1906  
Encls.

office Of Indian Affairs,  
Washington.

April 14, 1906.

U. S. Indian Inspector  
for the Indian Territory,  
Muskogee, I. T.

Sir:

There is enclosed herewith a letter from the Acting Commissioner to the Five Civilized Tribes, dated the 7th instant, regarding the appointments of Robert H. Earnest, William E. Crowder and Charles S. Hare as Choctaw and Chickasaw Appraisers under the Act of July 1, 1902 (32 Stats., 642), together with a memorandum from Mr. J. W. Holcombe, Chief of the Appointment Division, Interior Department, requesting information concerning their employment, with the request that you submit such report thereon as may be deemed proper in the premises.

Very respectfully,

C.F.Larrabee,

Acting Commissioner.

(Endorsed) Union Agency No.13913 Received Apr.16,1906 Office of U. S. Indian Inspector for Indian Territory.Washington, April 14,1906.Commissioner.----Encloses for REPORT letter from the Acting Commissioner to the Five Civilized Tribes regarding the appointment of certain persons as Choctaw and Chickasaw Appraisers.----



211

D E P A R T M E N T O F T H E I N T E R I O R.  
W A S H I N G T O N .

I.T.D. 17000-1905.

May 10, 1906.

United States Indian Inspector

for Indian Territory, Muskogee, Ind. T.

Sir:

To expedite payment for the value of improvements on the segregated coal and asphalt lands of the Choctaw and Chickasaw nations, as provided by section 58 of the act of July 1, 1902 (32 Stat., 641), there is returned for revision the supplementary roll prepared thereunder March 24, 1905, by Cyrus Beede, United States Indian Inspector.

You are instructed to bring said roll, down to date, by carefully comparing the names of each claimant thereon with the records of the Commissioner to the Five Civilized Tribes to ascertain the exact status of the citizenship of each claimant.

Recent investigation has disclosed that the names of several persons appearing thereon as "Not identified" have been identified subsequent to the preparation of said roll. Great care should be exercised in determining whether claimants named on said roll are identical with the person of same name on the approved rolls.

Reexamination as to certain claimants has shown that mistakes have been made in assuming that a person of same name appearing on approved roll is identical with claimant. For that



reason careful scrutiny of each name must be made in order to avoid error.

No. 1, the claim of Kitsy Alberson, ascertain whether any application has been filed for enrollment.

The full name of "Mrs. Brown," No. 11, should be ascertained.

Claim No. 43, estate of John W. Grady, should be thoroughly inquired into as to whether John W. Grady died prior to March 24, 1903, and if so, whether any of his heirs succeeding to his estate have been enrolled since his death.

Claims Nos. 95 and 96, the name of the Indian owner and whether said owner be an enrolled citizen should be ascertained.

An early report is requested in this matter, in view of the original roll being in readiness for departmental action.

Respectfully,

Jesse E. Wilson  
Assistant Secretary.

Through the Commissioner of  
Indian Affairs.  
1 inclosure.

(Endorsed) Union Agency # 14108 Received May 17, 1906. Office of U. S. Indian Inspector for Indian Territory. Washington, D. C. May 10, 1906. Secretary. Returns for revision and early report supplementary roll prepared March 24, 1905, for payment for value of improvements on segregated coal and asphalt lands of Choctaw and Chickasaw Nations.



DEPARTMENT OF THE INTERIOR.  
WASHINGTON.

I.T.D. 11990-1906.  
LRS

7/18/06

The United States Indian Inspector  
for Indian Territory,  
Muskogee, Ind.T.

Sir:

Receipt is acknowledged of your communication of June 21, 1906, inclosing form of patent prepared by you which you consider appropriate for use in conveying town lots in the Choctaw and Chickasaw nations which have been reserved from appraisement and sale for the use of churches and parsonages under section 29 of the act of June 28, 1898 (30 Stat., 495), which reads in part as follows:

"There shall be set apart and exempted from appraisement and sale in the towns, lots upon which churches and parsonages are now built and occupied, not to exceed fifty feet front and one hundred feet deep for each church or parsonage: Provided, That such lots shall only be used for churches and parsonages, and when they ceased to be used shall revert to the members of the tribes going to be disposed of as other town lots: Provided further, That these lots may be sold by the churches for which they are set apart if the purchase money thereof is invested in other lot or lots in the same town, to be used for the same purpose and with the same conditions and limitations."



The authority for the issuance of patents conveying such lands is found in section 14 of the act of April 26, 1906 (Public No. 129), which provides in part as follows:

"That the lands in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole Nations reserved from allotment or sale under any Act of Congress for the use or benefit of any person, corporation, or organization shall be conveyed to the person, corporation, or organization entitled thereto: Provided, That if any tract or parcel thus reserved shall before conveyance thereof be abandoned for the use for which it was reserved by the party in whose interest the reservation was made, such tract or parcel shall revert to the tribe and be disposed of as other surplus lands thereof."

The material portion of the form or patent submitted by you is found in paragraph 3 thereof, which reads:

"Whereas, the said commission has set apart and exempted from appraisement and sale the real estate described hereinbelow for the use of.....as provided by section 29 of the Act of Congress approved June 28, 1898 (30 Stat., 495), who is entitled to a patent, under section 14 of the Act of Congress approved April 26, 1906 (Public No. 129).

NOW, THEREFORE, we, the undersigned, the Principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation, do by virtue of the power and authority vested in us by the twenty-ninth section of the Act of Congress of the United States,



approved June 28, 1898 (30 Stat., 495), and the Act of Congress approved July 1, 1902 (32 Stat., 641), and the Act of Congress approved April 26, 1906. (Public No. 129), hereby grant, sell and convey unto the said.....heirs and assigns forever, all the right, title and interest of the Choctaw and Chickasaw nations aforesaid in and to lot... numbered..... in block.. numbered.....in the town of.....,..... Nation, Indian Territory, and according to the plat thereof on file as aforesaid."

Reporting in the matter July 6, 1906, the Indian Office recommends that said form be adopted, with the exception of that portion of the paragraph quoted above which indicates that the town lots to be conveyed were set apart and exempted from appraisement and sale by the act of the Townsite Commission. Instead, the Indian Office suggests that it was the law and not the Commission that created the exemption, and accordingly recommends that the words: "and exempted from appraisement and sale." be stricken from the form.

The Department considers it advisable that words of the same general import as those last above quoted above, be retained in the patent, in order to identify the land conveyed thereby as a reservation. It is not clear, from the language of the law, whether it operates of its own force, without positive act on the part of some officer or board, to create the exemption referred to above. It is believed that the form quoted below is sufficient and will avoid question in the matter.



You request to be advised whether the lots reserved under the said act of June 28, 1898, should be conveyed in accordance with section 29 of that act, or whether the absolute title to the lots should be conveyed without any limitation whatever, as in the case of other town lots not so reserved. You suggest that if the Act of June 28, 1898, is to be followed, it would appear necessary for a provision to be inserted in the patent to the effect that the title shall remain in the church organization so long only as the lots are used for church purposes, and that this would no doubt cause much complication hereafter, especially in cases where lots might be sold by the churches and the proceeds invested in other lots in the same town for the same purpose. You therefore conclude it is desirable that the absolutely (Sic) title be conveyed, believing that such course is in accord with the intention of section 14 of the act of April 26, 1906.

There is some question as to whether the section last referred to contemplates that, after issuance and delivery of patents for town lots reserved as indicated above, the title to such lots shall revert to the tribes in the event that they are no longer used for the purpose for which reserved. It is evident that, irrespective of the final solution of this question, no greater estate can be created through the medium of the proposed patent than that contemplated by the laws authorizing its issuance. The Department considers that the form of patent should comply



substantially with that now in use in the conveyance of allotted lands. Patents of the latter class contain a provision making the conveyance subject to the provisions of the statute under which they are issued. It is furthermore considered that a single reference to the statutes involved is sufficient in the form of patent. The following form is in accordance with the views expressed herein and is believed to be sufficient under the law:

"The CHOCTAW and CHICKASAW NATIONS,  
Indian Territory.  
-----

To all to whom These Presents Come, Greeting:

WHEREAS, a certain town site commission, heretofore appointed, and acting in accordance with law, has appraised the lots in the town of.....,.....Nation, Indian Territory; and of the Interior on the....day of.....,....., and was duly placed on file; and

WHEREAS, the said commission has set apart, as exempt from appraisement and sale, the real estate described herein below, for the use of.....

NOW, THEREFORE, we, the undersigned, the Principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation, by virtue of the acts of Congress approved June 28, 1898 (30 Stat., 495), July 1, 1902 (32 Stat., 641), and April 26, 1906 (Public No. 129, and subject to the provisions thereof, have granted and conveyed, and by these presents do grant and convey, unto the said ....., all right, title, and interest of the Choctaw and Chickasaw nations in and to lot..numbered..... in



block.....numbered....., in the town of .....,  
Nation, Indian Territory, and according to the plat thereof on  
file as aforesaid.

IN WITNESS WHEREOF, we, the Principal Chief of the  
Choctaw Nation and the Governor of the Chickasaw Nation, have  
hereunto set our hands and caused the great seal of our respect-  
ive nations to be affixed at the dates hereinafter shown.

(SEAL) Date....., 190....

.....  
Prin. Chief of the Choctaw Nation.

Date....., 190....

.....  
Gov. of the Chickasaw Nation."

In accordance with your request, 2000 copies of the form  
of patent adopted will be printed. Such forms will be furnished  
as soon as practicable for the use of the Indian Agent.

A copy of Indian Office letter of July 6, 1906, is in-  
closed.

Respectfully,

Thos. Ryan.  
Acting Secretary.

1 inclosure.

(Endorsed) Union Agency # 14642 Received July 18, 1906 Of file  
of U.S. Indian Inspector for Indian Territory. Washington.D.C.  
July 16, 1906. Secretary. Approves form of patent to be used in  
conveying town lots in Choctaw & Chickasaw Nations reserved for use  
of Churches under Act of June 28, 1898. 2000 copies will be printed.



THE WESTERN UNION TELEGRAPH COMPANY

219

65 KS GU DA 31 Collect Govt.

Washington. D. C. July 19th 1906.

Wright, Inspector,

Muskogee I.T.

Answering telegram nineteenth Inst. action detailing special agent shepperd to attend choctaw and chickasaw paying party in place of Beede is approved.

Thos. Ryan. Actg. Sec't 4:30 PM.

(Endorsed) Union Agency # 14649 Received July 19, 1906. Office of U. S. Indian Inspector for Indian Territory. Washington, July 19, 1906. Secretary.



DEPARTMENT OF THE INTERIOR.  
WASHINGTON.

I.T.D. 12738-1906.

July 20, 1906.

The United States Indian Inspector

for Indian Territory, Muskogee, Ind.Ter.

Sir:

The Department is in receipt of your telegram, dated the 19th inst., saying--

Have detailed Special Agent Shepard to attend Choctaw and Chickasaw paying party in place of Inspector Beede, therefore no necessity for sending other representative at this time, unless so desired,

to which the Department replied under same date--

Answering telegram, nineteenth instant, action detailing Special Agent Sheperd to attend Choctaw and Chickasaw paying party in place of Beede is approved. Thomas Ryan, Acting Secretary.

Respectfully,

Jesse E. Wilson  
Assistant Secretary.

Through the Commissioner of  
Indian Affairs.

(Endorsed) Union Agency # 14739 Received July 26, 1906. Office of U.S. Indian Inspector for Indian Territory. Washington, D.C. July 20, 1906. Secretary. Confirms telegram approving action detailing Special Agt. Shepard to attend Choc-Chick paying party vice Beede.



22)

DEPARTMENT OF THE INTERIOR.  
Washington.

I.T.D. 12902-1906.

August 18, 1906.

United States Indian Inspector

for Indian Territory, Muskogee, Ind. T.

Sir:

The Department has considered your letter of July 24, 1906, in the matter of refunding tribal taxes paid in the Choctaw and Chickasaw nations after December 31, 1905.

In view of section 11 of the act of April 26, 1906 (Public No. 129), which provides in part--

"That all taxes accruing under tribal laws or regulations of the Secretary of the Interior shall be abolished from and after December thirty-first, nineteen hundred and five, but this provision shall not prevent the collection after that date nor after dissolution of the tribal government of all such taxes due up to and including December thirty-first, nineteen hundred and five, and all such taxes levied and collected after the thirty-first day of December, nineteen hundred and five, shall be refunded,"

You suggest the advisability of instructions being given to ascertain from the tribal records the amount of tribal taxes collected since January 1, 1906, in order that proper instructions may be given the United States Indian Agent to refund such amounts from tribal funds in the United States Treasury.



With your letter you transmitted one from Governor Johnston of the Chickasaw Nation, dated June 12, 1906, wherein he sets forth that while the law provides for the refunding of the taxes it does not define in what manner it should be done. He further expresses the opinion that these taxes were collected under laws then in force and effect, and that when paid they became the property of the Chickasaw people as much as any other funds belonging to the tribe.

Forwarding the papers July 24, 1906, the Indian Office takes issue with Governor Johnston's view of the law, Construing that portion of the act quoted above which provides for the refunding of taxes collected after December 21, 1905, with that portion of the same section which reads as follows:

"All such claims arising before dissolution of the tribal governments shall be presented to the Secretary of the Interior within six months after such dissolution, and he shall make all rules and regulations necessary to carry this provision into effect and shall pay all expenses incident to the investigation of the validity of such claims or indebtedness out of the tribal funds,"

the Indian Office concludes that persons from whom taxes were collected subsequent to December 31, 1905, have claims against the nation to which such taxes were paid, and the Department has ample authority to refund the amounts thus collected by the tribal officers or by the officers of the Government.



Accordingly, said office recommends that it be authorized to instruct the Agent to cause the records of the several tribes to be examined with a view to determining the amount of money collected by each of such tribes subsequent to December 31, 1905, and report the facts to the Department in order that suitable instructions may be issued directing the refunding of the amounts thus collected.

The Department does not find it necessary at this time to issue instructions in the matter.

The papers submitted do not include any specific claim. When such is presented the question will be decided in the light of the facts, the act under which the tax was collected, and such other law or laws as may be pertinent to the matter. General instructions will not issue, however, for the refunding of taxes where there has been no assertion of the right.

Respectfully,

Thos. Ryan.  
ACTING SECRETARY.

Thorough)Sic) the Commissioner  
of Indian Affairs.

(Endorsed) Union Agency # 15044 Received Aug. 24, 1906. Office of U.S. Indian Inspector for Indian Territory. Washington, August 18, 1906. Secretary. Relative matter refunding tribal taxes paid in the Choctaw and Chickasaw nations after Dec. 31, 1905.



227  
DEPARTMENT OF THE INTERIOR,

Washington.

I.T.D.12298-1906.  
18688-1906.

October 17, 1906.

United States Indian Inspector

for Indian Territory, Muskogee, Ind.T.

Sir:

On September 22, 1906 (Land 80479), the Indian Office transmitted your communication dated September 12, 1906, forwarding the report of the mining trustees of the Choctaw and Chickasaw nations for the quarter ended June 30, 1906, which report is dated August 2, 1906.

Considering said report, you refer to the failure of the Choctaw, Oklahoma and Gulf Railroad Company to pay royalty for the month of June, 1906; and its request that the amount, \$1,363.44, or at least a part of it, be deducted from the advanced royalty to the credit of its leases. This company has heretofore failed to produce the stipulated output from its leases and also refused to pay a royalty on the difference in tons between the amount actually mined and that required to be produced. You state that you have instructed the United States Indian Agent at Union Agency, Ind.T., not to allow said company or any other company which has failed to pay the amount due because of its failure to produce the stipulated amount of mined coal to take credit for any accumulated advanced royalty in making their monthly statements of coal mined until the matter could be considered by the Department.



The Indian Office recommends that the report of the mining trustees be approved, and that you be advised of the Department's position on your action relative to the Choctaw, Oklahoma and Gulf Railroad Company.

The report of the mining trustees is hereby approved, and you are advised that your instructions to the United States Indian Agent at Union Agency are considered correct. You are directed to advise the Agent that he will be governed in the future, in similar cases, by said instructions.

Respectfully,

Thos. Ryan

Acting Secretary.

Through the Commissioner of Indian Affairs.

(Endorsed) Union Agency No. 15777 Received Oct. 22, 1906 Office of U.S. Indian Inspector for Indian Territory. Washington, D.C. Oct 17, 1906. Secretary. ---- Approves report of Mining Trustees for quarter ended 6/30/06; also action taken relative C. O. & G. R. R. Co. Directs Agt be governed in similar cases by Inspectors instructions in this case which are approved. ----



226

THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY.  
CHOCTAW LINES.

L A W

D E P A R T M E N T.

CHAS. B. STUART.  
Attorney for Okla.  
& I.T.

South McAlester, I.T.,  
November 14, 1906.

THOMAS R. BEMAN.  
Asst. Attorney for  
Okla. & I.T.

Hon. J. Geo. Wright,  
United States Indian Inspector,  
Muskogee, I.T.

Dear Sir:-

Your letter of November 13th, 1906, touching shortage of cars in the Choctaw and Chickasaw Nations, received. I have laid the matter before Mr. R. A. Jackson, the First Vice President and General Solicitor of the Rock Island Company, and as soon as I hear from him I shall advise you.

I thank you very much for your courtesy in this matter, and I assure you that everything will be done, that can be done, to meet present conditions.

Very respectfully yours,

C.B. Stuart.  
Attorney Okla. & Ind. Ter.

(Endorsed) Union Agency # 59916 Received Nov. 15, 1906.  
Office of U.S. Indian Inspector for Indian Territory. So.  
McAlester, I.T., Nov. 14, 1906. C. B. Stuart. Rel. to shortage  
of cars in the Choctaw & Chickasaw Nations.



227

DEPARTMENT OF THE INTERIOR,  
Washington.

I.T.D.400-1907.  
402-1907.

January 11, 1907.

The United States Indian Inspector  
for Indian Territory,  
Muskogee, Indian Territory.

Sir:

On January 7, 1907, the Department telegraphed you,  
as follows:

"Wire Department status of suits, civil and  
criminal, against all parties in Choctaw and  
Chickasaw Nations alleged to have received tribal  
warrants illegally issued under acts not approved  
which require executive approval."

in reply to which, the Department received telegram, dated  
the 8th instant, as follows:

"Answering telegram seventh, civil suit  
Choctaw Nation will come up last of February.  
Will wire on receipt of desired information from  
United States attorney Chickasaw Nation concern-  
ing criminal suits pending there. No action  
yet taken."

and also on same day, the following:

"Referring my telegram this date U. S.  
Attorney Chickasaw Nation wire Colbert cases  
pending at Tishomingo next term March 11th.  
Mansfield cases pending at Ardmore not set for  
trial next term Ardmore April 29th."

The Department confirms its said telegram of the



7th instant.

Respectfully,

Jesse E. Wilson

Assistant Secretary.

Through the Commissioner of Indian Affairs.

(Endorsed) Union Agency No. 16587 Received Jan. 17, 1907 Office of U.S. Indian Inspector for Indian Territory, Washington, D.C. January 11, 1907 Secretary.-----Confirms telegram of Jan. 7, calling for status of civil and criminal suits against parties in Choctaw and Chickasaw nations relative illegally issued tribal warrants.-----



229

D E P A R T M E N T O F T H E I N T E R I O R.  
Washington.

H.T.D. 38-1907.

January 14, 1907.

The United States Indian Inspector

for Indian Territory,

Muskogee, Indian Territory.

Sir:

Answering your letter of December 15, 1906, submitting a report by Special Agent Foster concerning unpaid Chickasaw warrants issued since July 1, 1902, and referring to departmental letter of January 11, 1907, there is enclosed a copy of an opinion of the Assistant Attorney-General of January 10, 1907, approved, in which it is held that the Department has authority under section 11 of the act of April 26, 1906 (34 Stat., 137), to pay Choctaw and Chickasaw Warrants issued prior to July 1, 1902, where found to be lawful.

There is also enclosed a letter of instructions to Mr. Foster, who has been directed to proceed, under your supervision, with the investigation (Sic) of the indebtedness of the Choctaw and Chickasaw nations, including that shown by warrants issued prior to July 1, 1902.

A copy of an item suggested by the Indian Office, relative to the inspection of the records of the Five Civilized Tribes, which will be submitted to Congress, is enclosed.

Respectfully,

E.A. Hitchcock  
Secretary.

3 enclosures.

Through the Commissioner of Indian  
Affairs. Finance, 113242006.

16599



(Endorsed) Union Agency # 16599, Received Jan. 21, 1907.  
Office of U.S. Indian Inspector for Indian Territory. Washington  
D.C. Jan. 14, 1907. Secretary. Encloses copy of letter from asst.  
General relative examination of Choctaw and Chickasaw warrants  
and records, and directs (letter enclosed to J. P. Foster) con-  
tinued examination.



231

D E P A R T M E N T O F T H E I N T E R I O R.  
O F F I C E O F I N D I A N A F F A I R S ,  
W A S H I N G T O N .

Education-  
Administration

Sept. 23, 1909.

69555-1909

69556-1909

69557-1909

69558-1909

69559-1909

69560-1909

69561-1909

A V S

Copies of approved  
contracts.

John D. Benedict, Esq.,

Superintendent of Schools in Five Civilized Tribes,  
Muskogee, Oklahoma.

(Through the Commissioner to the Five Civilized Tribes.)

Sir:

There are inclosed approved copies of contracts between this Office and the Bureau of Catholic Indian Missions for the care and education of Indian pupils of the Five Civilized Tribes at schools in Oklahoma during the fractional fiscal year ending June 30, 1910, as follows:

For 15 Choctaw Indian pupils in St. Joseph's Boarding School at Chickasha, in the Chickasaw Nation, at the rate of \$36 per capita per quarter, amounting to \$1620.

For 30 Choctaw Indian pupils at St. Agnes Academy, Ardmore, in the Chickasaw Nation, at the rate of \$36 per capita per quarter, amounting to \$3240.

For 30 Choctaw Indian pupils in St. Elizabeth's



Boarding School, Purcell, in the Chickasaw Nation, at the rate of \$36 per capita per quarter, amounting to \$3240.

For 15 Chickasaw Indian pupils in St. Joseph's Boarding School, Chickasha, in the Chickasaw Nation, at the rate of \$36.00 per capita per quarter, amounting to \$1620.

For 30 Chickasaw Indian pupils in St. Agnes Academy, Ardmore, in the Chickasaw Nation, at the rate of \$36 per capita per quarter, amounting to \$3240.

For 30 Chickasaw Indian pupils in St. Agnes Mission Boarding School, Antlers, in the Choctaw (Sic) Nation, at the rate of \$36 per capita per quarter, amounting to \$3240.

For 30 Chickasaw Indian pupils at St. Elizabeth's Convent Boarding School, Purcell, in the Chickasaw Nation, at the rate of \$36 per capita per quarter, amounting to \$3240.

Please acknowledge receipt hereof.

Very respectfully,

J. H. Dortch,  
Chief Education Division.

ELO-20  
4705.



233

STONE AND TIMBER ROYALTIES.

All royalties which may accrue or become due to the Nations or members thereof, or which have accrued or been collected under the operations of the Act of June 6, 1900, which Act is hereby accepted in all its provisions, through sale of stone, timber or other valuable substance, excepting coal and asphalt, under contracts approved by the Secretary of the Interior, shall be payable into the treasury of the United States through the United States Indian Agent, for the benefit of the tribe, until allotment of such lands shall have been made. Upon allotment all contracts so made shall terminate if so desired by the allottee, or if continued with his permission, royalties thereunder shall be paid direct to him.

Allotment, for the purposes of this agreement, shall be construed to be the day on which the citizen accepts a certain tract of land as his allotment, and the same is set aside to him by the Commission to the Five Civilized Tribes.



234

COAL AND ASPHALT LANDS.

All coal and asphalt lands shall be segregated by the Commission to the Five Civilized Tribes from the common domain of the Choctaws and Chickasaws and sold by said Commission at public auction to the highest bidder immediately upon the completion of the appraisal of said lands hereinafter provided for, PROVIDED, however, that notice of such sale shall be given by newspaper advertisement, and by such other methods and to such extent as may be deemed advisable by the Commission to the Five Civilized Tribes, and provided that such coal and asphalt lands be first appraised at their minimum value by expert mineralogists appointed by and acting under direction of said Commission, and no lands shall be sold for less than their appraised value. The payments for such property may be made one-fourth cash, within thirty days after sale, one-fourth March 4th, 1902, one-fourth March 4th, 1903, and the balance March 4th, 1904, all deferred payments to bear interest at the rate of seven per cent per annum from date of sale.

Said sales of coal and asphalt lands shall be made subject to existing leases, and the royalties provided for by said leases shall, from and after thirty days from the date of sale, be payable to the purchaser of said lands, and if there are deferred payments on said lands said royalties, when due, shall be paid into the Treasury of the United States through the United States Indian Agent at Union Agency, Muskogee, Indian Territory to the credit of said purchaser on said deferred payments.



Each purchaser of coal and asphalt lands so sold shall, at the time of purchase, deposit with said Commission one hundred dollars as evidence of good faith in the purchase of said lands. Should said purchaser fail or refuse to make payment in cash of one-fourth of the purchase price within thirty days as aforesaid, said one hundred dollars shall be forfeited and paid into the Treasury of the United States for the benefit of said tribes, and said lands shall be readvertised and sold by said Commission in the manner provided for the original sale of said lands.

Should said one-fourth cash payment be made by said purchaser within thirty days as aforesaid, said one hundred dollars shall be deemed to be a part of said cash payment for which said purchaser shall receive full credit.

The purchaser of any such coal or asphalt lands shall have the right to pay the whole amount in cash at any time before maturity and shall thereupon be entitled to a deed for said lands.

All deferred payments of purchase money for said lands shall constitute a lien upon the lands for the payment of same, and suit therefor may be brought in the name of the executives of the Choctaw and Chickasaw Nations for the benefit of all Choctaw and Chickasaw citizens, and may be enforced in the United States Court within the jurisdiction of which the lands are located.

Deeds to all lands shall be executed by the executives of the Choctaw and Chickasaw Nations immediately upon full payment



of the amount due, free of charge to the grantee, conveying a fee simple title; and all deeds shall be approved by the Secretary of the Interior, and said approval shall constitute a relinquishment on the part of the United States to all the interest which the United States may have in and to the lands so conveyed.

For the purposes of segregation of coal and asphalt lands as provided above, it shall be the duty of the Commission to the Five Civilized Tribes, upon being furnished by the Department of the Interior with all available information respecting the location and extent of said coal and asphalt lands, to survey and plat such tracts of land.

All royalties which may accrue or become due to the Nations or members thereof through sale of stone, timber or other valuable substances, excepting coal and asphalt, under contracts approved by the Secretary of the Interior, shall be payable into the Treasury of the United States through said United States Indian Agent for the benefit of the tribes until allotment of lands shall have been made. Upon allotment all contracts so made shall terminate, if so desired by the allottee, or if continued with his permission royalties thereunder shall be paid direct to him.

Allotment, for the purposes of this agreement, shall be construed to be the day on which the citizen accepts a certain tract of land as his allotment, and the same is set aside to him by the Commission to the Five Civilized Tribes as his proportionate share of the tribal domain.

(Endorsed) Union Agency # 56 Draft of proposed agreement with Choctaws and Chickasaws governing stone and timber royalties and coal and asphalt lands.