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**REPORT**

OF THE

**JOINT COMMITTEE ON RECONSTRUCTION,**

AT THE

**FIRST SESSION THIRTY-NINTH CONGRESS.**

**WASHINGTON:**  
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**1866.**

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WASHINGTON, *May 19, 1866.*

Mr. T. J. Mackey recalled, and examination continued.

By Mr. HOWARD:

Question. What has been your means of information in regard to the condition of affairs in the Indian country, south and west of Arkansas?

Answer. In the spring and summer of 1862 I was engaged in making a reconnoissance or military survey of a part of the territory occupied by the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Indians.

Question. What is the condition of the Indians and negroes there, more particularly the negroes?

Answer. At that time I think there were some 10,000 or 12,000 negroes in the five nations, embracing the tribes I mentioned in my last answer. Those negroes were held as slaves, and were the subjects of barter and sale as were the same class in the States of the south. The negroes of the Indian territory present a much lower type of intelligence, and a much lower moral status than the negroes of the southern States, for the reason that the negroes of the south have been constantly brought in contact with a higher class of intelligence than the negroes of the Indian territory. The latter class of negroes have acquired the thriftless habits of the Indians. But their condition was a happy one, in so far that they were very rarely overworked; but they lived in a state of extreme ignorance, almost barbarism.

Misc-genation was very rigidly prohibited by the laws of the several Indian tribes or nations. The punishment of an Indian in the Creek country for cohabiting with a negro woman, for the first offence was a certain number of stripes, and for the second offence the cutting off of the nose and ears; and the negro was punished with stripes.

There are schools in the Indian territories, supported by funds granted by the government of the United States, at which the children of Indians were and are educated; but no negroes or the children of negroes are permitted to enter those schools.

In the Cherokee country very nearly two-thirds of the population are of mixed blood—white and Indian—being one-half, one-quarter, or one-eighth white blood. About one-third of the population are full-blooded Indians. The full-blood Indian gives no evidence of thrift or advancement. In my judgment no full-blood Indian has ever been thoroughly civilized, or can be.

There is a radical antagonism between the full-blood Indian and the half, quarter, or eighth blood. The antagonism is greater between them than that which exists between the full-blood Indian and the white man. The full-blood Indian does not trust the good faith of the mixed blood, and believes that he has degraded himself and his caste by the union with the white.

In the Choctaw nation, however, in spite of the severe laws against misc-genation, some of the chiefs are crossed with African blood. And in the Seminole nation several of the most prominent chiefs, the most distinguished in war and in council, were full-blood negroes. These Indians were in alliance with the late Confederate States during the late war.

Question. Of all the tribes you have mentioned?

Answer. Yes, sir; they entered into an alliance with the confederate authorities, which alliance was to be perpetual.

Question. Who was the diplomatic agent of the confederacy?

Answer. General Albert Pike, commissioner to all the tribes upon the borders, and subsequently brigadier general commanding the department of the Indian territories. Treaties were also concluded with the Caddo and Anulako Indians, with a portion of the Delawares, and with several bands of the Comanches. These treaties were to last "while water runs and grass grows."

**Question.** That is, perpetually?

**Answer.** Yes, sir. The Comanches were bound to neutrality simply—to bear arms neither against the south nor against the north. The Comanches occupied the western border of Texas, frequently extending their excursions into Texas, and sometimes across the Rio Grande into Mexico, and bands of the Comanches come down to the western borders of the Chickasaw country, in the Wichita mountain region.

The country of the Five Nations is exceedingly fertile, producing cotton, corn, wheat, and all the cereals in great perfection. It abounds with iron, lead, and copper, in their purest forms. There are also abundant oil springs everywhere in the Cherokee, Choctaw, and Chickasaw nations, which have never been worked.

But the chief occupation of these Indians is the rearing of horses and cattle. Comparatively but little attention has been paid to agriculture, except among the Cherokees, who are farthest advanced in civilization.

**Question.** What is the Indian population?

**Answer.** Not far from 70,000 to 100,000.

**Question.** Including all the tribes?

**Answer.** Yes, sir, the Five Nations.

**Question.** Are they warlike?

**Answer.** They are; their habits are martial, because they are engaged largely in hunting. But they did not prove very formidable in the field against modern discipline, and the very large preponderance that artillery bears in the composition of armies at this day; but they rendered some service to the confederate authorities.

**Question.** About how many warriors did they furnish to the confederacy during the late war?

**Answer.** In July, 1864, under the command of Brigadier General Pike, they had in the field the largest organization that they had ever furnished—some 7,000 or 8,000 men.

**Question.** They furnished then about one-tenth of their entire number?

**Answer.** Yes, sir; all classes turned out.

**Question.** How were they armed?

**Answer.** With the ordinary hunting rifle, and with single and double-barrel shot-guns. Many of them, however, were subsequently armed with Enfield rifles.

**Question.** Did they use the bow and arrow and the tomahawk at all?

**Answer.** No, sir; the Indians of the Five Nations have abandoned the use of the bow and arrow. In some few cases full-bloods use the bow and arrow; but those cases are very rare. A large number of the Comanches still use the bow and arrow, but they were not in the field in the confederate service.

**Question.** Were those Indian warriors employed in active operations against the United States?

**Answer.** A small portion of Cherokees were employed at the battle of Elk Horn, where they captured a battery, and subsequently, early in the fall of 1864, Indians were employed in the capture of a federal train, with its escort, on Cabin creek, in the Indian territory; and they were employed on the 15th of April, 1864, in the capture, at Poison Springs, Arkansas, of the train of General Steele, commanding that district.

**Question.** How did the Indians treat the Union prisoners who fell into their hands?

**Answer.** At Poison Springs it was found extremely difficult to control the Indians when the battle was over, though, upon the opening of the attack, they fell back in great confusion upon receiving a volley. The force that made the attack consisted of white and Indian troops; about 2,000 Indians on the extreme left. The Indians advanced on the left before the signal was given, and were met with a volley from the escort of the train, which caused them to fall back in disorder. They bore but a slight part in the battle, but, after it was over, they moved forward and began to kill the wounded, who were chiefly blacks, for the escort of the train were black troops. The Indians were checked in this as soon as practicable, for they would have killed the confederate wounded with the same facility, in order to secure the spoils. Under the administration of General Pike, Indians were not permitted to maltreat prisoners; and in order to deprive them of any motive to maltreat and plunder prisoners, General Pike offered a considerable reward for every prisoner, man or woman, delivered to him by the Indians, which, in my judgment, saved many prisoners from slaughter at the hands of the Indians, as they brought them in and received the reward; and the prisoners were invariably treated kindly and sent beyond the confederate lines as soon as practicable. The Indians practiced cruelties upon the prisoners at Elk Horn, which was the subject of a correspondence between Major General Curtis, of the Union army, and General Pike. General Pike disclaimed authorizing such conduct, and took measures to discover the perpetrators of the crimes; measures, however, which were ineffectual. At the opening of hostilities the Cherokees were divided in sentiment; ultimately, however, about one-half went north, and the other half remained with the south.

**Question.** What is the state of feeling between those two classes of Indians?

**Answer.** Very hostile and bitter; very violent. In my judgment the difference is irreconcilable, as the Indian is a very hearty hater and never forgives. I have had opportunities of ascertaining this sentiment since the surrender, by conferring with exponents of both sides among these Indians.

**Question.** You think their hostility is irreconcilable?

Answer. Yes, sir. In my judgment it would be impracticable for them to reside in the same country together without a very large garrison to preserve the peace.

Question. Were these Indian warriors in the habit of torturing their prisoners after capture?

Answer. I have heard of a good many cases, and know of three cases of torture practiced upon whites; the others were practiced upon Indians. The Indians of the Cherokee nation that adhered to the government of the United States were termed Pio Indians; those that adhered to the south were termed the Standuaitie party. When they take each other prisoners in battle they invariably subject them to torture, to the dislocation of limbs, the cutting off the joints, commencing with the fingers and toes, until the body is dismembered. That was practiced by the full-bloods, not by the mixed-bloods.

Question. Did they inflict these tortures upon white prisoners?

Answer. They did in the cases of three confederate soldiers that I know of.

Question. What do you think of the present feeling of those Indians, who served the confederate cause, towards the government of the United States?

Answer. I think that their feeling towards the government of the United States is very friendly, but it is exceedingly bitter against the late Confederate States, believing, as they do, that they were the victims of a fraud when they formed their alliance with the confederacy. In the cases of the Five Nations, there were no garrisons of the United States then occupying any portion of their territory. Under former treaties made by those nations with the government of the United States, it was provided that the United States should maintain garrisons in their respective territories to guard their Indian allies from marauding bands of whites and wild Indians. Claiming that those treaties had been violated by the withdrawal of those garrisons, the Indian nations felt themselves free to treat with what, to them, was ostensibly an established government upon their border, the Confederate States. They are now pacific and amicable in their disposition. The government of the United States never stood so high among the Indians of the border as it does to-day, because of the evidence of power it has given during the war. Prior to the war the borders of Texas were overrun by bands of Comanches. To-day, on the remotest borders of the west, the Comanche Indians tremble at the prospect of a war with the United States, and, for the first time, respect its flag. At present men are herding their stock upon the borders of Texas, in regions that six years ago were deserted because of the incursions of hostile Indians.

Question. You think there is little danger to be apprehended in the future from disturbances on the part of the Indians?

Answer. None. On the contrary, I think that a very efficient force to check the wild tribes on the borders, should they at any time prove turbulent, could be drawn from the Five Nations and substituted for white troops.

Question. Do you think the employment of these Indian forces by the confederates was of any real advantage to the confederate cause?

Answer. It was a negative advantage, by preventing them from effecting an alliance with the government of the United States, and thus obviating the necessity of the confederate authorities keeping a large force upon the border of Texas to protect it—an advantage only so far as the alliance secured the peace of the Texas border as against these tribes. They were of but little positive value as soldiers in the field in confronting the forces of the United States, for they invariably met with disaster upon fair fields, and were only effective in following up victories or in effecting an ambush. Their successes were very small during the war.

Question. They were wanting in steadiness?

Answer. Yes, sir; they are an unreliable, thriftless people. As soldiers, they come you know not when; they go you know not where. They are always in the wrong places precisely at the wrong times. But there are no secessionists among them now.

Question. Did they submit to military discipline with any alacrity?

Answer. No, sir; and they practiced the habit of leaving when they pleased, although in some cases they would get some of their friends or relations to take their places, without consulting their commanding officers. They would periodically disband and return to their homes with the view of putting in their corn crops, and then return to the army. Many millions of dollars were expended by the confederate authorities in arming and equipping these Indians, and in foraging and subsisting them. It was found impossible to induce them to serve as infantry. They were all cavalry, and very inferior cavalry, too.

Question. How are they as marksmen?

Answer. Very inferior. I never saw an Indian that was a good shot.

Question. Would they scalp their prisoners when they took any?

Answer. It was a point of honor among Indians never to scalp others of the same tribe, though they would practice upon them the most monstrous cruelties. Nor would they scalp a white man in the presence of a white man, because it is deemed a very grave insult. The Indian believes that the dead go to the happy hunting-ground as he leaves this world, and the body of a warrior is not complete without his scalp, his badge of honor. If his scalp is taken he will not be happy hereafter, because that symbol of his honor as a warrior is gone; and in their own tribe they do not extend their malice beyond the grave. The Indian resembles the white man chiefly in one very marked peculiarity of his character—his want of gratitude.

**Question.** Is there any gratitude in the Indian?

**Answer.** Very little.

**Question.** The general impression is that the Indian has rather a grateful heart for favors.  
**Answer.** Those who have been upon the frontier will not indorse that opinion. To the white man the Indian shows but little gratitude. The wild Indian deems every favor extended to him by a white man as but an evidence of fear or weakness.

**Question.** Have these Indians any well-defined ideas concerning property?

**Answer.** The mixed bloods have; but the idea of the full-blood Indian is a very ill-defined one. The ground over which he hunts is deemed to be his own. He has no idea of titles vesting by virtue of improving lands. The Indians of the Five Nations do not hold their lands in fee-simple; they are not allowed to dispose of their lands.

**Question.** How is the transfer of lands made?

**Answer.** A party is permitted to hold all the lands he improves and fences, without limitation as to the number of acres; and he can pass his title to the improvements, but not to the land itself.

**Question.** The title to the land itself remains in the nation?

**Answer.** Yes, sir. It is to be hoped that that system will not be continued, so that there may be an influx of white population in that region, in order to develop the mineral and agricultural resources of that country, which now lie dormant.

**Question.** What is the custom among them in regard to the right of holding and improving lands? Is a license, or any similar document, given by the chief or the council to each individual Indian?

**Answer.** A record is kept by the proper officer of the amount of land claimed as improved, and a small tax is paid—a fee for registration.

**Question.** They have an office of registration?

**Answer.** Yes, sir, and other offices. Their legislatures meet annually, and their laws are published in book form.

**Question.** Will you describe their government and their mode of legislation?

**Answer.** Their government is republican in form. Members of the legislature, an upper and a lower house, are elected every two years, I think, who pass local laws and impose local taxes. For instance, by the laws of the several Indian legislatures, no intoxicating liquor is allowed to be sold within their territories, and a military organization is kept up, termed the "light-horse," as a police, for the purpose of preventing whites from bringing liquor into the territory and disposing of it. Those local legislatures impose taxes and fines. In cases occurring between whites and Indians—a case of homicide, for instance—the case is not triable under any local laws of the Indian territory, but in the nearest United States district court.

**Question.** How are the members of their legislative bodies elected, and what are the qualifications of an elector?

**Answer.** That they shall be citizens of the Indian territory, whether white men or red men.

**Question.** Can a white man residing there vote?

**Answer.** He can if he is a citizen of the territory; and he can become a citizen immediately by marrying an Indian woman and making application, which is invariably granted, or by a residence of one or two years in the territory and making improvements—by becoming an actual settler.

**Question.** How is the vote taken?

**Answer.** By ballot.

**Question.** And in the organization of their legislative houses, have they a speaker and other officers?

**Answer.** Yes, sir; their legislatures are modelled after the legislatures of the several States; and they have a territorial secretary and treasurer, the treasurer being the custodian of the several funds of the territory—the school fund, &c.

**Question.** After a bill has been passed by the two houses how is it approved—how does it become a law?

**Answer.** Each nation has a head chief; the head chief of the Creek nation is called king, or men; of the other nations they are termed head chiefs. Among them are men of very considerable ability.

**Question.** Does the head chief, or king, of a nation approve the bills in a manner similar to the governors of States?

**Answer.** In addition to their legislatures they hold councils, at which the head chief presides. These councils consider questions of general policy—the applications of persons to become citizens; and the treaties are made by the councils, and not by the legislatures.

**Question.** And a bill would be approved by the head chief and the council?

**Answer.** I suppose so.

**Question.** Suppose the chief and council dissented from the provisions of any bill?

**Answer.** I know of no provision made for the exercise of the veto power.

**Question.** Has the chief or council power to alter or amend a bill?

**Answer.** No, sir; they can suggest or recommend alterations. It is a very crude system.

**Question.** Do you think of anything further to state in regard to the enslavement of the black race among these Indians?

**Answer.** There are some very large slaveholders in the Indian territories. A mulatto is very seldom seen in the country. I do not recollect, with all my experience in those territories, to have seen two mulattoes there. The African race has been preserved in its purity there.

**Question.** And those are now held there as slaves?

**Answer.** Yes, sir, unless their *status* has been recently changed by some treaty of which I am not advised.

**Question.** How do the Indians regard the amendment of the Constitution abolishing slavery throughout the United States?

**Answer.** They do not deem it applicable to them, as their separate and independent sovereignty and nationality have been recognized by the United States, ever since the establishment of the government of the United States, by the making of treaties with them which are ratified by the Senate of the United States, in the same manner as treaties with any foreign power. But there is among the Indians a very general willingness to abolish slavery at once, provided they can receive a moderate compensation for their slaves.

**Question.** The fact is, that at present they do hold and use these negroes as slaves?

**Answer.** Yes, sir.

**Question.** And treat them as articles of transfer and sale?

**Answer.** Yes, sir, as slaves are treated in all countries where there are slaves.

**Question.** The Indians do this to this day?

**Answer.** Yes, sir.

**Question.** And, so far as you know, they do not regard as applicable to them the amendment of the Constitution abolishing slavery?

**Answer.** Not at all. They regard themselves as foreign nations, as independent sovereignties. They perceive the fact that the exchangeable value of the slave has been greatly impaired by their vicinage to the States of the United States, as those States would furnish a secure asylum to their slaves whenever they may choose to leave their masters. But the slaves there are very well contented. They are treated by their masters with great liberality, and upon terms approaching a perfect equality, with this exception, that the owner of the slave generally does more work than the slave himself. I am satisfied this statement would be sustained by any number of negroes taken at random from any portion of the Indian territory. Their attachments to their Indian masters are very strong.

**Question.** What has become of Albert Pike?

**Answer.** He is at present residing in Arkansas, of which State he was one of the supreme judges at the time of the surrender.

**Question.** How is he regarded by the people of the late Confederate States?

**Answer.** General Pike is held in high esteem at the south because of his ability as a scholar and a poet, and his high moral character as a gentleman. He wields a very great influence in the State of Arkansas, and is regarded by the Indians as their friend and exponent. It is within my own knowledge that he accepted with very great reluctance the position of brigadier general in the confederate service. In treating with the Indians on the border his aim has always been simply to secure their neutrality, that they might not be used on either side in the late contest; and he has always worked with the Indians in the interest of humanity, endeavoring, as I have already said, to secure prisoners from maltreatment by the Indians, by offering rewards for the safe delivery of prisoners to him, and, since the surrender, he has been assiduously laboring for the interests of the government of the United States.

**Question.** Were the Indians of the Five Nations at all unanimous in their adhesion to the late Confederate States? Please state the facts in reference to that alliance.

**Answer.** They were unanimous, with the exception of a fraction of the Creek and Seminole nations that went north at the beginning of the contest. In May of 1861 the Cherokee nation issued a declaration of neutrality in view of the then impending war. That declaration was concurred in by the confederate authorities, and respected by General McCulloch, who was then upon the Cherokee border with an army of about 2,000 men, composed of Texas, Arkansas, and Louisiana troops. They maintained this neutrality until the defeat of the United States forces at the battle of Wilson's creek, Missouri, in the month of August, 1861; they then, through their principal chief, John Ross, addressed a communication to General Albert Pike, commissioner from the Confederate States to the Indian nations, and proposed to renounce their neutrality and enter into an alliance, offensive and defensive, with the Confederate States. General Pike effected a treaty with them on this basis. By the terms of that treaty the Confederate States agreed to pay them the sum of two hundred and fifty thousand (\$250,000) dollars cash, and to continue to them the annuities that they had received from the United States, and to reimburse them for the loss of their neutral lands in Kansas, &c. In return, the Cherokees were to furnish all their able-bodied men for service against the United States, provided that the Cherokee troops were not to be ordered out of the Cherokee nation without their own consent. Pursuant to this treaty a Cherokee force was organized under the especial direction of John Ross, who issued a declaration of war against the United States on behalf of the Cherokee nation. About one thousand of these Cherokees were present at the battle of Pea Ridge, or Elkhorn, in March of 1862. They consisted altogether of men of the Pin or Ross party. At night, after the battle was done, they moved over the field and killed and scalped the wounded of the federal army. In July of 1862 Colonel Wier, of the United States army, then commanding a force on the northern

order of the Cherokee country, proposed to John Ross to abrogate the treaty entered into by the Cherokees with the Confederate States, and invited his attention to the fact that the Confederate States had violated that treaty by withdrawing their forces from the Cherokee country, and he urged the Cherokees to enter into an alliance with the United States, and tendered to John Ross and the chiefs of the nation a safe conduct to Washington and return through his lines. This proposition was at once rejected by Ross, who declared that the Cherokees were bound to the people of the south in a community of interest and sentiment, and would stand or fall with the Confederate States. He also stated that the Cherokees would never break the faith of treaties to ally themselves with a people who had authorized and practiced the most monstrous barbarities, in violation of the laws of war. This reply was forwarded with a letter explanatory, by John Ross, to General Pike, who was then about 175 miles distant, with the confederate and Indian troops, in the Chickasaw nation near the Texas border. I read the reply and letter; they were delivered to General Pike by a son of John Ross. About three months after this reply John Ross went over to the north with about one-half of the Cherokee nation, embracing the larger portion of the full-blood Indians. Many of them entered the service of the United States, and, in my opinion, it would have been cheaper for the government to have fought them than to have fed them.

T. J. MACKEY.

NOTE.—Many of the statements and opinions which appear to have been volunteered by me in the above testimony were elicited by remarks and questions on the part of the committee, which have not been noted by the reporter.

T. J. MACKEY.