



Descendants of the Freedmen of the Five Civilized Tribes Association

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
The Capitol
Washington, DC 20510

Dear Speaker Pelosi

I am writing to you today as the President of The Descendants of Freedmen of the Five Civilized Tribes Association. Our organization was established in 2002 to represent the estimated two hundred thousand individuals who are the descendants of slaves of the Choctaw, Cherokee, Chickasaw, Muscogee (Creek) and Seminole Nations, collectively referred to as the Five Civilized Tribes. I am also a member and citizen of the Cherokee nation and a descendant of Freedmen.

As President of the Association, it is incumbent upon me to respond to a recent letter to you from Choctaw Nation of Oklahoma Principal Chief Batton in which he disparages the Freedmen and their rich history, preferring to keep their story buried and continue the stain of legacy that continues to haunt our nation. As our mission statements attests to, the Association is dedicated to providing education about the history and culture of the African-Indian freedmen and their descendants of the 5 tribes, to fight against ongoing racial discrimination against the freedmen descendants by using the courts, appealing to Congress and Federal agencies, and organizing demonstrations and appealing to the public to fight for enforcement of 1866 treaty rights to tribal membership including voting rights, rights to hold office, and rights to federal services on the same basis as other tribal members.

Before addressing the letter from Principal Chief Batton, however, and on behalf of all Freedmen descendants, I want to express our collective gratitude to you for your strong and steadfast leadership in getting this Congress to begin the difficult but long overdue process of adding our Nation's legacy of racism against African Americans by removing some of its vestiges, including statues in the Capitol Rotunda and the names of Confederate Generals from our military installations. Your courage is commendable and we hope that after reading this letter, you will support the efforts of Chairwoman Waters and others before her such as former Chairman Barney Frank and Congressmen Mel Watt and to address the continuing discrimination and racism we face today by attaching strong, enforceable legislative language to not only to the Native American Housing and Self-Determination Act (NAHASDA) re-authorization legislation, but also to the Tribal HUD-VASH program, annual HUD appropriations bills, the HEROES Act, and other legislation from the House Natural Resources Committee.

The Civil Rights issue that we raise with you now harkens back to this era and we urge you to take the same decisive action on behalf of the Freedmen as you have taken in support of so many causes during your years of public service.

Turning to the letter from Principal Chief Batton we understand he has requested that you oppose Chairman Maxine Waters efforts to include language into two Indian Housing bills (NAHADA) and HUD Tribal VASH which would allow the Secretary of HUD to suspend disbursement of federal taxpayer housing funds to the Choctaw nation if they are not in compliance with their 1866 treaty obligations to the descendants of Choctaw Freedmen tribal members. To be clear, the language that Chairwoman Waters' has drafted applies only to the 5 Civilized Tribes that held black slaves and entered Treaties with the Confederate States. Contrary to assertions by some, the language also is not an infringement on Native American sovereignty or the right to determine citizenship. Indeed, the 1866 Treaties that each of the Tribes ratified limited the sovereignty and right to determine citizenship by including language that specifically abolished slavery within the 5 Tribes, set up provisions for tribal citizenship of the Freedmen, and introduced provisions dealing with land allotments. As recent Federal court decisions including the Supreme Court's decision this term in *McGirt V Oklahoma*, the 1866 Treaties remain valid. Accordingly, it is insincere, regrettable, and most importantly legally and factually incorrect for any to assert that upholding the rights of Freedmen is an infringement upon the sovereignty of the 5 tribes.

PO BOX 42221, Oklahoma City, Ok. 73123

Phone: 405-227-9810

Fax: 405-300-0757

www.freedmen5tribes.com



Descendants of the Freedmen of the Five Civilized Tribes Association

Mr. Batton is incorrect in his assertions that the Freedmen issue is a "problem caused by the United States" and cites the systematic racism of the United States rooted in American Slavery of African Americans. The Choctaw freedmen issue was caused by the Choctaw nation's system of permanent enslavement of people of African descent, its waging war on the United States during the Civil War by- joining the confederate states in 1861 (ratified through a treaty) primarily to protect the chattel slavery system, and subsequent failure to uphold the promises and commitments it made to the Choctaw freedmen tribal members adopted by the tribe and their descendants – issues on which Mr. Batton is totally silent.

The Choctaw nation had been based in Mississippi but signed the 1831 removal treaty of Dancing Rabbit Creek to remove to what is now southern Oklahoma. When the Choctaw nation was removed from their ancestral land, they brought slaves with them – persons who had to carry the bags of their masters. Much of the wealth of the nation derived from slaves who were used for cotton growing on large plantations just as in the deep south. For example, the 1860 Federal census for Indian Territory lists Choctaw Robert Jones as owning 230 slaves. Just as in the deep south, the Choctaw nation had laws that blocked slaves from owning property, learning to read and write and marrying Choctaw Indians. In addition, the Choctaw Nation did not allow freed slaves to live in the nation, and like slaveholders in the south hunted down runaway slaves. There were almost no Choctaw Indians who fought for the Union in the Indian Home Guards. In 1860 there were approximately 2,298 slaves and 13,666 Choctaw Nation tribal members.

Mr. Batton refers to the Emancipation proclamation and African Americans. What his letter fails to mention is that this document did not end slavery in the Choctaw nation and only affected the slaves of United States citizens. Indeed, slavery continued in the Choctaw Nation until the signing of the 1866 treaty, more than a year after the end of the Civil War.

At the end of the Civil War, the United States and the Choctaw nation signed the 1866 treaty (14 Stat 769 - ratified June 28, 1866) jointly with the Chickasaw nation. The treaty ended slavery in both nations but, notably provided for adoption of the freed slaves. If the Choctaws and Chickasaw freedmen were adopted as citizens, the Choctaw and Chickasaw nation would receive \$300,000, which would accrue interest at 5% per year. The tribes would be paid the funds if the freedmen were adopted within 2 years. If the US government removed the freedmen from the Choctaw and Chickasaw nations, the freedmen would receive the \$300,000. The treaty also provided that if the freedmen were adopted as citizens and the tribal lands were allotted in the future between tribal members based on agreements between the tribes and the U.S. government, the freedmen could be limited to 40 acre allotments. The treaty was not "imposed" on the tribe as asserted by Mr. Batton. Rather, the treaty was signed by tribal officials and indeed contained provisions sought by the Choctaw leaders such as receiving payments for adoption of the freedmen which the Creek, Cherokee, and Seminole Nation treaties did not contain.

Furthermore, unlike the Cherokee, Creek, and Seminole treaties which did not limit their freedmen citizens to smaller allotments than other citizens of those tribes, the Choctaw and Chickasaw treaties permitted smaller allotments. In 1882, an Indian Department appropriations act allowed the Choctaw and Chickasaw nations to adopt the freedmen independently and receive their share of the \$300,000 for the adoption. The Choctaw nation legislature did not adopt the freedmen until March 23, 1883. However, the Choctaw freedmen adopted as citizens were not permitted to hold elective office. Congress approved the adoption in 1885 and the Choctaw nation received \$52,125 in 1885 as partial payment for adopting the Choctaw freedmen under the Indian appropriations act

PO BOX 42221, Oklahoma City, Ok. 73123

Phone: 405-227-9810

Fax: 405-300-0757

www.freedmen5tribes.com



Descendants of the Freedmen of the Five Civilized Tribes Association

The Curtis Act of 1898 and the Act of July 1, 1902 ratifying the Supplemental Agreement of 1902 between the Choctaw Nation and the United States established the Dawes enrollment of Choctaw citizens and allotment of Choctaw lands owned in common. (32 Stat 641). Choctaw Freedmen tribal members received 40 acre allotments while other tribal members, including adopted whites received 320 acres of tribal lands formerly owned in common by all tribal members. Choctaw freedmen were listed on separate sections of the Dawes rolls from "Choctaw by blood" and were listed without degrees of blood. (Note rolls and censuses made by the tribes did not list degrees of blood prior to the allotment periods). The concept of blood quantum was conceived and implemented by U.S. Government officials). The degrees of blood - primarily guesses by Dawes commissioners were set up to determine when restrictions would be lifted on selling the allotments without permission of the US government. The Dawes commission used the lists of tribal members including the freedmen made by the Choctaw tribe to make the Dawes rolls. The Dawes rolls approved by Congress listed 17,488 Choctaws by blood, 1,651 adopted whites, 6,029 freedmen, and 1,660 Mississippi Choctaw members of the tribe. One such freedmen tribal member listed includes my own ancestor, Choctaw Freedmen Levi Johnson, who had been enslaved by Jincy Cochran.

The Choctaw Freedmen did not actually become "African Americans" until the Act of 1901 granted members of the five tribes U.S. citizenship. Members of Indian tribes were not US citizens until made so by Acts of Congress. The Dawes rolls were approved by Act of Congress in March 1907. Choctaw Indians were not subject to the Oklahoma Jim Crow segregation laws and Grandfather Clause denial of voting laws unlike the Choctaw Freedmen as persons with "one drop of African ancestry" had to endure beginning in late 1907 following Oklahoma Statehood. (Oklahoma State Senate Bill 1).

In 1940, the Choctaw nation was awarded \$231,125 by the US Court of Claims which had been owed based on the 1866 treaty. Following this payment, the US owed the tribe no additional payments for adoption of the Choctaw freedmen and thus had complied with those treaty obligations. (91 Ct Claims 320).

In 1970, Congress adopted the Principal Chiefs Act allowing members of the Five Tribes including the Choctaw Nation, to select principal Chiefs. Although Bureau of Indian Affairs officials provided guidance to tribal officials that the freedmen were entitled to vote, the Choctaw freedmen do not appear to have been allowed to vote in any tribal election since the Principal Chiefs Act was enacted.

In 1983, the tribe held a constitutional election which resulted in tribal membership being limited to Choctaw by blood listed on the Dawes Commission final rolls or their descendants. While the Constitution was approved by the Department of Interior, in contravention of the Principal Chiefs Act and the 1866 treaty, the Department of Interior made no efforts to ensure that Choctaw Freedmen were allowed to vote on this constitution. It is ironic that Mr. Batton speaks of unfairness when the Choctaw Nation blocked Freedmen from voting on a Constitution that stripped the Freedmen of their citizenship rights in violation of the Principal Chiefs Act and the 1866 treaty.

On July 9, 2020, the US Supreme Court held in *McGirt V Oklahoma* that a member of the Seminole Nation had been improperly tried in a criminal case by the state of Oklahoma instead of the US government due to the Creek Nation reservation never having been extinguished by Act of Congress. In the ruling, the Justices referred to the Creek 1866 treaty as binding authority. Statements by the Choctaw Nation chief imply his belief that the Choctaw Nation still has reservation status also based on the fact that no clear Act of Congress extinguished the Choctaw Nation reservation. What is clear is that there is no act of Congress that has removed citizenship from the Choctaw freedmen. If the Choctaw reservation is indeed intact as Mr. Batton seems to imply, that is so based on the 1866 treaty - the last treaty signed between the U.S. government and the Choctaw nation.

PO BOX 42221, Oklahoma City, Ok. 73123

Phone: 405-227-9810

Fax: 405-300-0757

www.freedmen5tribes.com



Descendants of the Freedmen of the Five Civilized Tribes Association

Mr Batton cites various cases including *Santa Clara Pueblo v Martinez*, *Rice v Cayetano*, *Plains Commerce Bank v Long Family Land and Cattle Company*, and *Nevada v Hicks* as authority for legal disenrollment of the Choctaw freedmen tribal members. None of the cited cases are relevant to the Choctaw freedmen - Descendants of slaves who have treaty rights to tribal membership based on agreements between the US government and the tribal government. *Santa Clara* involved denial of citizenship to children born to women who married non members of the tribe after a certain date. The *Rice* case did not involve members of a federally recognized tribe at all. The *Plains Commerce Bank* case dealt with the authority of a tribal court to regulate the sale of non Indian fee land located on a reservation. In *Nevada*, the U.S. Supreme court held that a tribal court had no authority to regulate state officials in executing the process of crimes that occurred off reservation. There are various tribes which have agreed with the U. S. government having a role in the tribal membership. For example, the Ysleta Del Sur Pueblo tribe of Texas agreed with Congress setting a 1/4 blood quantum in their 1987 restoration Act (Public Law 100-89) to reverse the termination of their Federal status in 1968.

The Choctaw Freedmen and their descendants have suffered in deprivation and poverty - certainly in part due to racist laws passed at Oklahoma statehood but largely due to the Choctaw nation's choice to abuse and enslave people solely due to their color and African ancestry. The tribe received federal funds for adopting the Choctaw freedmen and never compensated the slaves themselves. The tribe even allowed whites married to Choctaw Indians for a short time to have 320 acre allotments while their former slaves - persons who had been a part of the tribe prior to removal received a small amount of the tribes land. Thus, it was the Choctaw themselves who set up the economic underprivileged poverty of the blacks that Mr. Batton refers to and not the US government.

The U.S. made a promise to Choctaw freedmen but so too did the Choctaw Nation. The tribe has accepted the money received from the U.S. government for the adoption and turned around and disenrolled the descendants of its former slaves. This action is a theft not only from the freedmen descendants but theft of the U.S. taxpayers funds. Mr Batton speaks of underprivileged Choctaws, it is the Choctaw nation which has caused much of the under privilege of the Choctaw freedmen community through their disenrollment and lack of access to Federal funded programs including housing, medical services and education. The tribe exercised their sovereignty when they signed the 1866 treaty and in 1883 when they adopted the freedmen.

Mr Batton asserts that it is unfair for Congress to deny the Choctaw nation federal taxpayer supported housing assistance based on its treatment of the descendants of its former enslaved black citizens. Here I must ask why a tribal nation that has disenrolled almost all persons of African ancestry whose ancestors were listed as members of the tribe a short time ago should not be viewed in the same way that rogue nations such as South Africa which denationalized its black citizens are viewed. The U.S. Congress rightly overrode President Reagans veto to enact into law the Anti- Apartheid Act of 1986 in order to boycott South Africa.

The Freedmen people ask for justice and that the law (the 1866 treaty) be upheld and enforced. We are a nation of laws and recent history had reminded us painfully of this importance. History also shows that the Freedmen descendants will not receive enforcement of their treaty rights in the 21st century without Federal government intervention. As a result, we humbly and respectfully ask that taxpayer funds not be distributed to Indian nations which have denationalized Freedmen descendants after having made written agreements with the United States in which they agreed to adopt former slaves and their descendants as citizens. The Choctaw Chief implies that the tribes can spend the funds as they chose. Strings have always come with federal funds allocated to tribes - for example income limits to receive rental assistance. Tribes have had federal funds frozen when they have not been in compliance with the law - one case being the Seminole Nation of Oklahoma.

PO BOX 42221, Oklahoma City, Ok. 73123

Phone: 405-227-9810

Fax: 405-300-0757

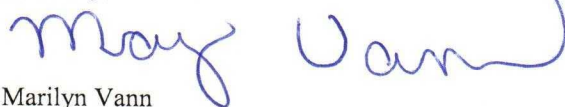
www.freedmen5tribes.com

Descendants of the Freedmen of the Five Civilized Tribes Association

The Freedmen people do not say that non freedmen Choctaw have not suffered. But the freedmen also suffered the removals, and greater poverty after Oklahoma statehood in part due to their small share of tribal property and disenrollment. The Choctaw freedmen have performed no treason or crimes to justify their denationalization. For Mr. Batton to imply that the disenrollment was proper based on sovereignty is little different than Mississippi denying blacks to vote or go to the library (funded by the taxpayers) based on state's rights.

We ask Madam Speaker that you support Chairwoman Waters' efforts to pass legislation to withhold the Choctaw Nation Housing funds or to any of the 5 tribes if they are found to be in non compliance of the 1866 treaty. While the Choctaw nation certainly has a choice to not comply with the treaty if they so choose, they should not be rewarded with U.S. taxpayer funds if they make such a choice. Finally, we also ask that you resist efforts to pass any bills passed by the Senate that do not include Freedmen language, including their version of NAHASDA re-authorization and Tribal HUD-VASH, and to extend language regarding the Freedmen to other legislation referenced above.

Sincerely,



Marilyn Vann

President – Descendants of Freedmen of the Five Civilized Tribes Association

CC: The Honorable Maxine Waters, Chairwoman. Committee on Financial Services

PO BOX 42221, Oklahoma City, Ok. 73123

Phone: 405-227-9810

Fax: 405-300-0757

www.freedmen5tribes.com