SALE OF THE MINERAL DEPOSITS OF THE CHOCTAW AND CHICKASAW COAL AND ASPHALT LANDS IN OKLAHOMA

"I count myself as one of the custodians of the good name of the Nation. Every Senator on this floor is charged with the personal responsibility of keeping the plighted faith of this Government, and no argument based upon material advantage will avail to justify any policy which will give ground to the Choctaws and Chickasaws to feel that the United States has been guilty of perfidy and dishonor. These Choctaws and Chickasaws are my constituents. They are citizens of the United States and of Oklahoma. They are my friends, and I represent them on this floor as Senator from the State of Oklahoma, and I serve notice on the Senate that patience has ceased to be a virtue."

SPEECH

HON. ROBERT L. OWEN

OF OKLAHOMA

IN THE

SENATE OF THE UNITED STATES

APRIL 15, 1912

WASHINGTON
1912

40083—10906

SPEECH

OF

HON. ROBERT L. OWEN.

The Senate having under consideration the bill (S. 5727) to provide for the appraisement of the mineral deposits of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations, and for other purposes—

Mr. OWEN said:

Mr. PRESIDENT: I rise to request and to demand that the United States fulfill its treaty obligations to the Choctaw and Chickasaws by the immediate sale of the coal and asphalt deposits, as the United States is pledged to do by treaty.

Nineteen years ago the Dawes Commission was instructed to negotiate with the Choctaws and Chickasaws for the allotment of their lands, the giving up of their tribal governments, and the creation of State government (27 Stats., 645, sec. 16). The Dawes Commission was expressly authorized in this act—

To procure the cession, for such price and upon such terms as shall be agreed upon, of any lands not found necessary to be so allotted or divided, to the United States.

The Choctaws and Chickasaws were very reluctant to give up their method of landholding, and to give up their tribal governments, to which they were deeply attached. The holding of land in common was almost a religion with the Indian people. But after four years of solicitation and urging the Choctaws and Chickasaws, who had always been extremely friendly to the United States and loyal to the wishes of the Government, agreed to give up their tribal governments by an agreement of April 23, 1897 (U. S., 30 Stats., 495, sec. 29).

By this agreement the Choctaws and Chickasaws agreed to relinquish their tribal government; that their lands should be allotted; and the United States agreed on its part to fairly divide the property owned by them in common at the expense of the United States.

This agreement was amended by a supplemental agreement approved by Congress July 1, 1902 (32 Stats., 641).

By section 14 it was agreed that the residue of lands not reserved or otherwise disposed of should be sold at public auction under the rules and regulations prescribed by the Secretary of the Interior and the proceeds distributed per capita. And it was further expressly provided as follows:

SEC. 56. *At the expiration of two years* after the final ratification of this agreement *all deposits of coal and asphalt* which are in the lands within the limits of any town site established under the Atoka agreement, or the act of Congress of May 31, 1900, or this agreement, and *which are within the exterior limits of any lands reserved from allotment on account of their coal or asphalt deposits*, as herein provided, and *which are not at the time of the final ratification of this agreement embraced in any then existing coal or asphalt lease, shall be sold at public auction* for cash under the direction of the President as hereinafter provided, and the proceeds thereof disposed of as herein provided respecting the proceeds of the sale of coal and asphalt lands.

SEC. 57. *All coal and asphalt deposits* which are within the limits of any town site so established, which are at the date of the final ratification of this agreement covered by any existing lease, shall, *at the expiration of two years after the final ratification of this agreement, be*

sold at public auction under the direction of the President as hereinafter provided, and the proceeds thereof disposed of as provided in the last preceding section. The coal or asphalt covered by each lease shall be separately sold. The purchaser shall take such coal or asphalt deposits subject to the existing lease, and shall by the purchase succeed to all the rights of the two tribes of every kind and character under the lease, but all advanced royalties received by the tribe shall be retained by them.

SEC. 58. Within six months after the final ratification of this agreement the Secretary of the Interior shall ascertain, so far as may be practicable, what lands are principally valuable because of their deposits of coal or asphalt, including therein all lands which at the time of the final ratification of this agreement shall be covered by then existing coal or asphalt leases, and within that time *he shall, by written order, segregate and reserve from allotment all of said lands. Such segregation and reservation shall conform to the subdivision* of the Government survey as nearly as may be, and the total segregation and reservation shall not exceed *500,000 acres.*

Mr. President, it has been 10 years since this solemn promise was made to the Choctaws and Chickasaws.

They have demanded from time to time the fulfillment of this guaranty by the United States, and, as Senator from Oklahoma, I have strenuously and persistently urged the sale of these coal and asphalt lands and deposits.

The Department of the Interior, which was charged with carrying out the plighted honor of the United States, now finds shelter for not carrying out this law under the act approved April 26, 1906, section 13, which was passed at the instance and with the approval of the department itself, as follows, to wit:

That all coal and asphalt lands, whether leased or unleased, shall be reserved from sale under this act until the existing leases for coal and asphalt lands shall have expired or until such time as may be otherwise provided by law.

These lands amount to approximately 445,000 acres:

	Acres.
Coal land, Choctaw Nation	438, 000
Asphalt land, Choctaw Nation	1, 000
Asphalt land, Chickasaw Nation	6, 000

Congress has just passed an act providing for the sale of the surface of the segregated coal and asphalt lands, but no action was taken by Congress to sell the mineral deposits of the coal and asphalt.

The Senator from Wisconsin [Mr. LA FOLLETTE], I am advised, desires that the United States should buy this coal and asphalt belonging to the Choctaws and Chickasaws, with a view to the conservation of these properties and the administration of these coal fields by the Government of the United States, and he has heretofore been unwilling to carry out the pledge of the United States to sell these properties and distribute the moneys to the Choctaws and Chickasaws, because he hoped that the House of Representatives and the Senate of the United States would agree to buy this property and handle it under the governmental administration.

Mr. President, I believe in the conservation of coal and asphalt, but I believe that this is a problem which primarily involves the conservation of the national honor. The preservation of the national integrity is more important than the Federal purchase or control of coal owned by private persons. The United States Government gave its pledge and its guaranty 10 years ago to nearly 30,000 human beings—the Choctaws and Chickasaws—that if they would do certain things and give up certain things, to which they were deeply attached, the United

States would sell this coal and asphalt and distribute the money to these people.

The Choctaws and Chickasaws have been waiting 15 years for the fulfillment of this pledge. Nearly 5,000 of these people have died disappointed and have been denied the written pledge of this Government. Justice delayed is justice denied.

I count myself as one of the custodians of the good name of the Nation. Every Senator on this floor is charged with the personal responsibility of keeping the plighted faith of this Government, and no argument based upon material advantage will avail to justify any policy which will give ground to the Choctaws and Chickasaws to feel that the United States has been guilty of perfidy and dishonor. These Choctaws and Chickasaws are my constituents. They are citizens of the United States and of the State of Oklahoma. They are my friends, and I represent them on this floor as Senator from the State of Oklahoma, and I serve notice on the Senate that patience has ceased to be a virtue.

I demand a fulfillment of the written pledge of this Government to the Choctaws and Chickasaws in good faith.

Nobody believes that the Government will buy this property, and nobody believes that the Government will permit this property to pass into the hands of any great monopoly. The abuse of monopoly can be prevented by selling it in tracts of reasonable size, and the laws of Oklahoma will do the rest.

If the Government is not going to buy this coal and asphalt, then let the Government immediately sell this land to the highest bidder and fulfill faithfully and honestly the plighted faith of this Nation.

I submit a memorandum prepared by the Department of the Interior in relation to the Choctaw and Chickasaw coal and asphalt lands:

MEMORANDUM PREPARED BY THE DEPARTMENT OF THE INTERIOR IN RELATION TO THE CHOCTAW AND CHICKASAW COAL AND ASPHALT LANDS.

"Additional legislation is required before the coal lands in the Choctaw Nation can be disposed of (all of the coal lands are within the Choctaw Nation). The last act of Congress on the subject was passed April 26, 1906 (34 Stat., 137), and provides as follows:

"That all coal and asphalt lands, whether leased or unleased, shall be reserved from sale under this act until the existing leases for coal and asphalt lands shall have expired or until such time as may be otherwise provided by law.

"The last agreement with the Choctaw and Chickasaws, embraced in the act of Congress approved July 1, 1902 (32 Stat., 641), provided that the coal and asphalt lands in the Choctaw and Chickasaw Nations be segregated. This segregation took place March 24, 1903, and embraced an area of approximately 445,000 acres. This area is divided up substantially as follows:

	Acres.
Coal land, Choctaw Nation, approximately	438,000
Asphaltum land, Choctaw Nation, approximately	1,000
Asphaltum land, Chickasaw Nation, approximately	6,000
Total	445,000

"Of this area about 100,000 acres were covered by live coal leases in effect July 30, 1909, and the 6,000 acres of Chickasaw asphaltum lands were also covered by leases at the same time.

The coal and asphaltum leases were made for a period of 30 years from their respective dates. The dates of these leases range from July 3, 1899, to September 16, 1902, and therefore they will expire by their own momentum from July 3, 1929, to September 16, 1932. Said act of July 1, 1902 (32 Stat., 641), which provided that no more mining leases should thereafter be made was not ratified by the Indians until September 25, 1902, and was not operative until ratified by the Indians. This accounts for the fact that some leases bear dates as late as September 16, 1902.

"Said act also provided that the segregated coal and asphaltum land should be sold within three years from its date at public auction for cash, under the direction of the President, by a commission composed of three persons to be appointed by the President. This commission was appointed, but no lands were disposed of by it. Pending action of said commission, Congress made a provision in the Indian appropriation act of April 21, 1904 (33 Stat., 189), whereby the method of sale of the coal lands was changed from sales at public auction to sales under sealed bids. Much of the coal land was advertised for sale in 1904 under sealed bids. These sealed bids were opened at the department, but were rejected because the Secretary decided that the price offered for the coal lands was inadequate. The bids on 362 tracts, aggregating 60,946 acres (no tract exceeding 960 acres), aggregated $498,562, an average of $8.18 per acre. Such bids included not only the land itself but the mineral therein.

"Nothing has been done since 1904 looking toward the sale of the coal lands, indeed nothing can be done without new legislation, as will be seen from the act of April 26, 1906 (34 Stat., 137), quoted above.

"There was a wide divergence of opinion on the value of these coal lands. On account of this, Congress on June 21, 1906 (34 Stat., 325), appropriated $50,000 for the purpose of prospecting the coal lands and drilling holes at different points to ascertain the value of the coal deposits therein contained. This $50,000 was expended by the Commissioner to the Five Civilized Tribes under the personal and direct supervision of Mining Agent William Cameron. Mr. Cameron personally conducted the prospecting, drilling, and examination of the field. His prospecting has been of great value to the Government, and the $50,000 appropriated was well expended. Mr. Cameron was assisted in his work by a representative of the Geological Survey detailed by the department. The man from the Geological Survey, who has had this matter under his personal supervision, is Mr. A. W. Thompson; he, however, is not now in the Government service.

"Senate Document No. 390, Sixty-first Congress, second session, gives a full and complete report of the prospecting done in the coal areas. This report, which is evidently a reliable document, shows among other things the following, to wit:

"Mr. Cameron considers the present value of the workable coal, separate from the surface, at $12,319,000 (p. 21). Mr. Cameron confines his calculation to coal veins lying 1,000 feet or less in depth from the surface (p. 90), and in the main confines his estimates to coal layers 3 feet in thickness or more (p. 90). He thinks that the segregated coal area contains 283,649 acres of good workable coal (p. 21). He estimates the

total value of the coal at $12,319,000, as stated above, or at about $44 per acre (p. 71), and thinks that the rest of the segregated area, containing approximately 155,000 acres, is either barren of coal or that the coal lies too deep for any commercial value.

"The Geological Survey, to which Mr. Cameron's report was submitted, using the same basis as that adopted by Mr. Cameron, to wit, coal lying in measures 1,000 feet and less in depth and having a thickness of 3 feet or more, estimates that the workable coal covers an area of 217,382 acres (p. 90). Moreover, the Geological Survey has used another basis of calculation upon which it places the coal area at 371,689 acres, using coal measures at a depth of 3,000 feet or less and veins of a thickness as small as 14 inches.

"I especially invite your attention to the four assumptions made by the Geological Survey in valuing the coal deposits exclusive of the surface. I quote their exact language, found on page 90 of Senate Document No. 390:

"In valuing these coal lands, four assumptions may be made:

"(1) That the coal be retained by the Indians and sold under leasehold contracts, as at present. At the present royalty rate this would yield a total return of approximately $160,000,000, less the cost of inspection and administration, and at the present rate of mining this return would be recovered in 666 years.

"(2) That they be retained by the Indians until sold by tracts or otherwise on demand for immediate exploitation. On this basis the value has been assumed to be the same that it would be if these were Government lands and being held by the Government, and the value calculated in the same way as the value of the Government lands. This gives a total value of $26,026,920.

"(3) That they be thrown onto the market by tracts and bring what they will. Their value can not be estimated in this case, but undoubtedly it would average very low.

"(4) That they be sold in a single piece to the State or National Government. If the National Government can obtain money at 3 per cent they are worth to it from $5,000,000 to $6,600,000. If the State government can obtain money at 5 per cent they are worth to it $4,000,000 or less. They are worth to either the State or National Government such a sum as the estimated income will pay interest upon and create a sinking fund that will ultimately recoup the investment. Since 1902 the annual production of coal in the Choctaw Nation has been about 3,000,000 tons. At 8 cents a ton this yields approximately $240,000 a year. Two hundred thousand dollars may be taken as a safe net royalty income, leaving $40,000 to meet the expense of inspection, administration, and contingencies.

"The leases above referred to have yielded, since the Government took charge, a royalty of 8 cents per ton, mine run, and have produced the following tonnage and royalty:

Year ending June 30—	Output.	Royalty.
	Tons.	
1899	1,404,442	$110,145.25
1900	1,900,127	138,486.40
1901	2,398,156	199,663.55
1902	2,735,365	247,361.36
1903	3,187,035	261,929.84
1904	3,198,862	277,811.60
1905	2,859,516	248,428.36
1906	2,722,290	251,947.02
1907	3,079,733	240,199.23
1908	2,780,649	273,196.82
1909	2,728,437	218,376.07

"It is to be remarked that the most desirable coal measures within this segregated area are under lease."

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