

ADME Fontenay Expansion Set #2

Although westerners never referred to it in just those words, their region had a "peculiar problem" of its own. As white settlement pushed westward, it displaced the Indian nations and forced them onto reservations through a series of inequitable "treaties" that steadily deprived them of their lands and means of livelihood. This sordid history was first exposed by "Friend of the Indian" Helen Hunt Jackson in her classic *A Century of Dishonor* (1881).

from A CENTURY OF DISHONOR

Helen Hunt Jackson

There are within the limits of the United States between two hundred and fifty and three hundred thousand Indians, exclusive of those in Alaska. The names of the different tribes and bands, as entered in the statistical tables of the Indian Office Reports, number nearly three hundred. One of the most careful estimates which has been made of their numbers and localities gives them as follows: "In Minnesota and states east of the Mississippi, about 32,000; in Nebraska, Kansas, and the Indian Territory, 70,660; in the Territories of Dakota, Montana, Wyoming, and Idaho, 65,000; in Nevada and the Territories of Colorado, New Mexico, Utah, and Arizona, 84,000; and on the Pacific slope, 48,000."

Of these, 130,000 are self-supporting on their own reservations, "receiving nothing from the Government except interest on their own moneys, or annuities granted them in consideration of the cession of their lands to the United States."

This fact alone would seem sufficient to dispose forever of the accusation, so persistently brought against the Indian, that he will not work.

Of the remainder, 84,000 are partially supported by the Government—the interest money due them and their annuities, as provided by treaty, being inadequate to their subsistence on the

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reservations where they are confined. In many cases, however, these Indians furnish a large part of their support—the White River Utes, for instance, who are reported by the Indian Bureau as getting sixty-six percent of their living by "root-digging, hunting, and fishing;" the Squaxin band, in Washington Territory, as earning seventy-five percent, and the Chippewas of Lake Superior as earning fifty percent in the same way. These facts also would seem to dispose of the accusation that the Indian will not work.

There are about 55,000 who never visit an agency, over whom the Government does not pretend to have either control or care. These 55,000 "subsist by hunting, fishing, on roots, nuts, berries, etc., and by begging and stealing;" and this also seems to dispose of the accusation that the Indian will not "work for a living." There remains a small portion, about 31,000, that are entirely subsisted by the Government.

There is not among these three hundred bands of Indians one which has not suffered cruelly at the hands either of the Government or of white settlers. The poorer, the more insignificant, the more helpless the band, the more certain the cruelty and outrage to which they have been subjected. This is especially true of the bands on the Pacific slope. These Indians found themselves of a sudden surrounded by and caught up in the great influx of gold-seeking settlers, as helpless creatures on a shore are caught up in a tidal wave. There was not time for the Government to make treaties; not even time for communities to make laws. The tale of the wrongs, the oppressions, the murders of the Pacific-slope Indians in the last thirty years would be a volume by itself, and is too monstrous to be believed.

It makes little difference, however, where one opens the record of the history of the Indians; every page and every year has its dark stain. The story of one tribe is the story of all, varied only by differences of time and place; but neither time nor place makes any difference in the main facts. Colorado is as greedy and unjust in 1880 as was Georgia in 1830, and Ohio in 1795; and the United States Government breaks promises now as deftly as then, and with an added ingenuity from long practice.

One of its strongest supports in so doing is the wide-spread sentiment among the people of dislike to the Indian, of impatience with his presence as a "barrier to civilization," and distrust of it as a possible danger. The old tales of the frontier life, with its horrors of Indian warfare, have gradually, by two or three generations' telling, produced in the average mind something like an hereditary instinct of unquestioning and unreasoning aversion which it is almost impossible to dislodge or soften.

There are hundreds of pages of unimpeachable testimony on the side of the Indian; but it goes for nothing, is set down as sentimentalism or partisanship, tossed aside and forgotten.

President after president has appointed commission after commission to inquire into and report upon Indian affairs, and to make suggestions as to the best methods of managing them. The reports are filled with eloquent statements of wrongs done to the Indians, of perfidies on the part of the government; they counsel, as earnestly as words can, a trial of the simple and unperplexing expedients of telling truth, keeping promises, making fair bargains, dealing justly in all ways and all things. These reports are bound up with the Government's Annual Reports, and that is the end of them. It would probably be no exaggeration to say that not one American citizen out of ten thousand ever sees them or knows that they exist, and yet any one of them, circulated throughout the country, read by the right-thinking, right-feeling men and women of this land, would be of itself a "campaign document" that would initiate a revolution which would not subside until the Indians' wrongs were, so far as is now left possible, righted. . . .

"The history of the Government connections with the Indians is a shameful record of broken treaties and unfulfilled promises. The history of the border white man's connection with the Indians is a sickening record of murder, outrage, robbery, and wrongs committed by the former, as the rule, and occasional savage outbreaks and unspeakably barbarous deeds of retaliation by the latter, is the exception.

Taught by the Government that they had rights entitled to respect, when those rights have been assailed by the rapacity of the white man, the arm which should have been raised to protect them has ever been ready to sustain the aggressor.

The testimony of some of the highest military officers of the United States is on record to the effect that, in our Indian wars, almost without exception, the first aggressions have been made by the white man; and the assertion is supported by every civilian of reputation who has studied the subject. In addition to the class of robbers and outlaws who find impunity in their nefarious pursuits on the frontiers, there is a large class of professedly reputable men who use every means in their power to bring on Indian wars for the sake of the profit to be realized from the presence of troops find the expenditure of Government funds in their midst. They proclaim death to the Indians at all times in words and publications, making no distinction between the innocent and the guilty. They irritate the lowest class of men to the perpetration of the darkest deeds against their victims, and as judges and jurymen shield them from the justice due for their crimes. Every crime committed by a white man against an Indian is concealed or palliated. Every offence committed by an Indian against a white man is borne on the wings of the post or the telegraph to the remotest corner of the land, clothed with all the horrors which the reality or imagination can throw around it. Against such influences as those the people of the United States need to be warned."

To assume that it would be easy, or by any one sudden stroke of legislative policy possible, to undo the mischief and hurt of the long past, set the Indian policy of the country right for the future, and make the Indians at once safe and happy, is the blunder of a hasty and uninformed judgment. The notion which seems to be growing more prevalent, that simply to make all Indians at once citizens of the United States would be a sovereign and instantaneous panacea for all their ills and all the Government's perplexities, is a very inconsiderate one. To administer complete citizenship of a sudden, all round, to all Indians, barbarous and civilized alike, would be as grotesque a blunder as to dose them all round with any one medicine, irrespective of the symptoms and needs of their diseases. It would kill more than it would cure. Nevertheless, it is true, as was well stated by one of the superintendents of Indian Affairs in 1857, that, "so long as they are not citizens of the United States, their rights of property must remain insecure against invasion. The

doors of the federal tribunals being barred against them while wards and dependents, they can only partially exercise the rights of free government, or give to those who make, execute, and construe the few laws they are allowed to enact, dignity, sufficient to make them respectable. While they continue individually to gather the crumbs that fall from the table of the United States, idleness, improvidence, and indebtedness will be the rule, and industry, thrift, and freedom from debt the exception. The utter absence of individual title to particular lands deprives every one among them of the chief incentive to labor and exertion—the very mainspring on which the prosperity of a people depends.

All judicious plans and measures for their safety and salvation must embody provisions for their becoming citizens as fast as they are fit, and must protect them till then in every right and particular in which our laws protect other "persons" who are not citizens.... Cheating, robbing, breaking promises—these three are clearly things which must cease to be done. One more thing also, and that is the refusal of the protection of the law to the Indian's rights of property, "of life, liberty, and the pursuit of happiness."

When these four things have ceased to be done, time, statesmanship, philanthropy, and Christianity can slowly and surely do the rest. Till these four things have ceased to be done, statesmanship and philanthropy alike must work in vain, and even Christianity can reap but small harvest.

1. The General Allotment Act (Dawes Act), 1887

An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the 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 in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or executive order setting apart the same for their use, the President of the United States be, and

he hereby is, authorized, whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severally to any Indian located thereon in quantities as follows:

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and
To each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *And provided further*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severally in quantities in excess of those herein provided, the President, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *And provided further*, That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

Sec. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which election shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

Sec. 3. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office....

Sec. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the

allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, of his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever....

Sec. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian both within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and 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....

Sec. 8. That the provision of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miami and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order....

2. Cherokee Delegates Defend Their Land and Institutions, 1895

To the Senate
And House of Representatives
of the United States Congress:

... These are times of imminent danger to those institutions of government and tenure of property that the Cherokees have brought with them from the darkness of little immemorial, modified somewhat by the enlightened influences of your great Constitution but distinctive still as Cherokee institutions. The Cherokees are fully alive to the situation, and they know that unless in some way congress shall become acquainted rapidly with their true condition, all that they hold dear of country and

³⁷ This document can be found in the Cherokee Papers, Oklahoma Historical Society, Oklahoma City, Oklahoma.

people will be swept away by the hands that they have heretofore confidently looked to for protection, and which have in gentleness and friendship been so often extended to them. For some reasons that we cannot explain, the Cherokees have been traduced and grievously misrepresented by persons high in authority, from whom we have had every reason to expect fair statement. It is natural to love the country one lives in, if that country protects life, promotes happiness, and insures equality. When a people are found who are intensely patriotic, it can be taken for granted that their government gives them such assurances. The Cherokees are such a people; there is not upon the face of the earth today a people more thoroughly contented with their condition than the Cherokees. In his humble western home, sequestered from the mad rush one sees in the east, you will find the Cherokee a sober, industrious, religious gentleman, earning his daily bread by honest labor upon the soil, of which he is equal owner with every one else in the nation, irrespective of superior advantage such as wealth, opportunity, or education gives.

He believes in common education, such as is natural with his ideas of common property. Therefore, under the constitution adopted in 1839, we find this provision: "Religion, morality, and knowledge being necessary for good government, the preservation of liberty, and the happiness of mankind, schools, and the means of education, shall forever be encouraged in this nation." Faithful to the idea here expressed, the history of the advancement of the educational interests of the Cherokees for the last fifty years cannot but please the mind and heart of him who loves his fellow-man for the good that he promises. Now, notwithstanding the pall that the civil war threw over the land, the progress of the Cherokee schools and facilities for common education has been marked and rapid. Now, with a population of 40,000 Cherokees, we have over one hundred common schools, running nine months a year, with capable, competent teachers, generally comfortable school houses, where all of necessary appliances, books, etc., are supplied by the Cherokee nation; a male and female college, of brick and stone, at a cost not exceeding each year over \$150,000, afford to the youth of both sexes an opportunity of higher education; an orphan asylum of sufficient size to accommodate every orphan of school age in the nation, which has cost over \$100,000, have now an attendance of over 2,000 orphans. We have also an asylum for the infirm and unfortunate (a home for these poor stricken people). At the male seminary this year there is over one hundred and eighty young men, at the female seminary over two hundred of our girls. The several missionary societies have not less than fifteen or twenty schools in the various parts of our country, encouraged by generous gifts of land upon the part of the Cherokees. To these earnest Christian workers in our midst we also appeal, in our time of extremity for national existence, to assist us in refuting the false charges made with no other motive, we believe, than to induce congress to withdraw its powerful protection from us, that we might become easy prey of unscrupulous avarice and greed, as the hungry beast devoured his milder companion of the forest. These religious denunciations among us, who brought to us the beautiful Christian religion, who witnessed the sowing of its seeds and now behold its plant of vigorous growth in the full bearing of its fruits, can bear us witness of the many false charges of retrogression, immorality, lawlessness, and crime among the Cherokees. We ask, when our enemies traduce us and when grave charges of malfeasance in public offices and trust are hurled at us, that you will require specific proof to accompany the accusation.

Churches are everywhere, organized throughout our land, and their efficient and powerful auxiliaries, the Sabbath schools, are conducted every Sunday in our various churches and school-houses, where the same lesson papers are used that your children study throughout this land and elsewhere. All of this, with the exception of the missionary efforts among us, to which we largely contribute, is done at no expense whatever to the United States, but entirely at the expense of the Cherokees. Is it to be doubted that a people fostering and encouraging such institutions have all the finer sensibilities of education and Christian manhood that will be found among similar communities in the States? Could a nation of irresponsible, corrupt, criminal people produce such conditions? Are these the results of the evil and corruption that the Dawes Commission assert pervade the very atmosphere down there? We earnestly ask that before laying the axe to the root of the tree you yourselves have planted and carefully attended, that you examine the fruits thereof and take not the word of some persons controlled by envy, and in a moment of irritability against us for not blindly following their suggestion, consent to and advise our destruction. We submit that in the nature of things, it would have been impossible for the Dawes commission to have found no good existing in our country, yet not one redeeming word do we find in their report, if there is any. Did they not see us in the worship of the same God they worship? Did they not hear us while with bowed heads we implored the intercession of the Son of God? Then why have they with the black veil of corrupt charges obscured the good that honor would have compelled them to acknowledge if they found it?

In our governmental affairs we have followed in the footsteps of your people; our form of government is as yours, with its three departments, executive, legislative and judicial, where the same authorities govern and the same methods and rules obtain, perhaps somewhat modified, as among you. It may be that at our legislature some of your practices have been adopted, and it may be that some of our methods in the struggle for office may partake of the taint we sometimes hear charged against your legislatures. Walking in your footsteps, it could hardly be expected that, in following the good you practice, some of your evils may not have also left their mark. We pursue some short cuts in office down there sometimes that would hardly receive the approbation of a legislative reformer; but that we are one half as corrupt as the Dawes commission represent us we emphatically deny, neither can we admit that we are to any degree as corrupt as the newspapers assert of your average legislatures....

The Cherokees wish to call your attention to the size of their present country. Within our country as at present bounded there are less than five million acres of land; our population is thirty thousand; the estimate of the number of acres includes river beds, and portions, and all that would be necessary for public travel and commerce. At a glance it will be seen that we have now less than one hundred and sixty acres to the head. The proportion of the arable land to that unfit for cultivation is, by the most liberal estimate, not exceeding one to four, so it will be seen that today the Cherokees have less than forty acres of tillable land to the individual. We invite your close attention to this fact, for not the least among the influences seeking the destruction of our government and the opening of the country is the hope that homes may thereby be obtained for the white people who would come in. It could not be so in the Cherokee nation; we have not now more than will suffice the immediate

necessities of our people; nor could we consent to part with any more land whatever without gross injustice to our poor, who depend upon agriculture and stock-raising for subsistence. There is no necessity for a town-site law in the Cherokee nation. The statement by the Daves commission that towns had been erected, costly business houses and residences built in the Cherokee nation by non citizens is absolutely false with not a single exception. We have half a score or more of beautiful towns in the Cherokee nation, beautifully and symmetrically surveyed, containing many substantial and even fine structures; but all has been done by citizens of the nation, and such buildings are not occupied or owned in any manner by aliens, nor have they any money in them. Our towns have good systems of municipal government, the result of liberal legislation on the part of the national council. A municipal government is run by a mayor and a board of aldermen, and called a town council. The quiet and neatness of our towns commend us to all our visitors. There are no white aliens doing business among us, other than those engaged in farming; we do not, as alleged, invite them into our country; we do not invite or use their money in building our towns; we put every impediment we can in the way of their coming among us; we do not need them in our midst, but we are a hospitable people, our friendship extends beyond the lines of our country, and in our acts of hospitality we sometimes harbor in our midst coming in the guise of friends, who, through motives of envy and covetousness, subsequently advise our undoing. Our country is indeed fair to look upon; to us its lovely valleys, limpid streams, flowing prairies, waving forests, and grand hills are an Eden. There, over fifty years ago, with specious promises of everlasting protection, you planted us, literally driving us from our homes in the mountains of Georgia, Tennessee, and North Carolina. "As long as the grass grows and water runs," wrote General Jackson, "shall the country remain yours." "No state or territorial line shall ever surround you," were the words your minister who induced us to go to that country, and his words are engrafted into the treaty. Now, after the lapse of fifty years, when the bodies of those who made these promises to us have been consigned to the tomb, and their names have taken their places in history, many of them for all time, you, their children, tell us, the children of those with whom they treated, that your parents did not mean all they said, and were only preparing a temporary solution of the questions they were pretending to settle...

S. H. Mayes,
Principal Chief,
and other delegates

3. The U.S. Supreme Court Supports Indian Water Rights: *Winters v. United States*, 1908

... The case, as we view it, turns on the agreement of May, 1888, resulting in the creation of Fort Belknap Reservation. In the construction of this agreement there are certain elements to be considered that are prominent and significant. The reservation was a part of a very much larger tract which the Indians had the right to occupy