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RATIFIED TREATY NO. 358

DOCUMENTS RELATING TO THE NEGOTIATION OF THE
TREATY OF JULY 19, 1866, WITH THE CHEROKEE INDIANS

Interview between Hon D.
W. Cooley, Commr of Indian
affairs, and Capt. Wells on
the part of the U. S. and
Genl. Swing and Hon Paul
W. Voorhees on behalf of the
Ross and Standwiche fac-
tions of the Cherokee Nation.

March 30th 1866

[Handwritten signature]

Interview between the Chiefs and Headmen of
the Cherokee Nation ("Ross party" represented by
Genl. Ewing, the other by Hon. Danl. W. Voorhees) and
Hon. D. W. Cooley Commissioner of Indian Affairs
and Indian Superintendent Sells, at the Office of
Indian Affairs - March 30th. 1866.

Mr. Voorhees - We come here to discuss the possibility
of making a treaty to suit us all. We are not par-
ticular who makes the treaty, whether Ross party or
the other, so justice is done. By actions of men
who now claim to be the heads of the Cherokee Nation
all former treaty relations have been abrogated.

If the Ross party cannot make a treaty we can.

Genl. Ewing - They have forfeited none of their
rights. The Government did not fulfil the stip-
ulations of their Treaty and protect them from
the influences of the Confederate Government.

Mr. Voorhees - Why the necessity then of the
Treaty at Fort Smith?

Genl. Ewing - I know of no necessity.

Mr. Cooley - I am only here to listen. To hear
the propositions from one side to the other. I am
willing to hear you discuss the propositions but
not ready to determine now. The object of the mee-
ting is to reconcile differences between the factions
of the Cherokee Nation. It makes little odds what
is in the preamble if the Cherokees will sign a
Treaty which the Commissioners think is right. The
effects of former Treaties will be destroyed if a

satisfactory one is made now. (Col. Ewing) Since reading the requests of the southern Cherokees, if you have any other concessions to make I am ready to hear them.

Comm. Sells - The Commissioners to Fort Smith were instructed to unite the parties if possible, and if not, to provide for each by a division of the lands belonging to the Nation.

Mr. Cooley - I will read a clause from the instructions given to Mr. Sells, myself and others who went to Fort Smith - (Read from instructions)

Mr. Ewing - How recently has there been serious feuds? Not for 15 years prior to the Rebellion - There were old and bitter feuds before but from 1845-6 to 1861, unless I am misinformed they lived in as much harmony as various factions of the Delawares do now. There were men murdered and men hung, but no serious difficulties between factions. When the war broke out the Northern and Southern Cherokees were inflamed with the old passion. The leaders of feuds are dying off and we hope they may be forgotten with the death of prominent actors in them. It may reasonably be expected that with the concessions we are willing to make old feuds will die out.

Mr. Cooley - we shall exhaust argument and resources to unite the bands but if that cannot be done we will obey our instructions and treat with them separately.

Mr. Ewing - The issues which grew

out of the slavery question will die out with the cause. — Reads article 3 of this proposition.

That seems a fair and full concession. The homes of disloyal Cherokees ^{were} may be sold and occupied by purchasers. Former owners may be reinstated by paying present value of new improvements, and the Cherokee Nation will pay the present holder the price paid on confiscation sale, and allow all to go home. Those who do not want to mix with Loyal Cherokees may have exclusive right for two years to take lands in the Canadian District. The majority prefer to live at their old homes, they do not want a separation. Few want to go to the Canadian District. If necessary the Cherokee Nation will give the disloyal population exclusive right to settle in the Canadian District until the President revokes the exclusive right. But those who take their homes north of the Arkansas River are not to have the right to go to the Canadian District.

Mr. Voorhes — I am glad to find the instructions did ~~not~~ contemplate a division of territory. There has been some of the most bitter domestic struggles. (Reads in support of his opinions from Indian Report) ^{1865 for the States.} My knowledge of the facts shows the effects ^{and memory} of this strife cannot be wiped out soon. These men are descendants of men who have been murdered by the Rep party. I can see no reason why they should be kept together. The feeling they bear toward one another is like a bitter

hatred between two men each watching his chance to be
revenge on the other.

Mr. Ewing - Then make the Arkansas River partition.

Mr. Voorhees - We do not want it. You say there
are evidences of harmony. I am satisfied none exist.
It does not exist among them now, while they are in this
city. I do not understand that the slavery agitation there,
these men were forced into the Confederate service by the
leaders of the Cherokee Nation.

Mr. Ewing - ~~Do~~ you open the question of
Loyalty for discussion?

Mr. Voorhees - I only made an allusion.

Mr. Ewing - I want to be heard too if that
is discussed.

Mr. Voorhees - Well, we will not argue it.
of 6500 who went with the Standwaiter party only 100
returned. That is not much evidence of harmony.
I will make a proposition - let a Census be taken, let
each man say whether he will live under the Ross juris-
diction or not if they all agree to do it we are
satisfied let each man choose whether he will live
with the Ross party or not. You (to Genl E) say
you are right and we are wrong - I deny it.

There is not enough of Country in the Canadian
District. You would send them there long enough to
throw the power into the hands of the Ross party. They
want to get from ~~under~~ under its rule. If they are dissatisfied
why not make the separation actual and final? It
was done in the case of the Choctaws. They were

separated for the peace and well being of the people.
What adverse interest can the Government have? We
ask no more land. 30 years of discord shows that
the leaders have not governed in peace. Make a treaty
bringing these men together and there will be no certainty
of what may happen. Send them home and you rest in
doubt. Divide the Country between them and you
may rest satisfied there will be no trouble.

We desire to sell Govt. all lands west of 96° and
the "Neutral Lands" we propose to sell Govt. for \$500
000. We propose to sell these lands in behalf of
Rail Roads and to encourage Agriculture &c. abolishing
slavery and protecting freedmen in their rights. I can
see no injustice in the proposition. Nothing except
the natural pride of power in some men against
it. The past History of the Cherokee Nation recom-
mends it.

When you met the Commiss^{rs} of the Cherokees at Fort
Smith. You tried to reconcile them.

On our part there is a distrust for long years of
what we term aggression and violence. As far as I
can learn they are afraid to trust themselves in
the power of these men. On our part there is
that distrust. We would not live so.

You submitted a proposition tried to effect a recon-
ciliation and failed. You told both parties to meet
here. In the meantime they were to go home and wipe
out measures of pains and ^{penalties} confiscations &c.
Have they done it? (Reads letter which stigmatizes

the Confiscation Sales as farces - as a wholesale robbery - that purchasers were known before the sales and certain men made a good thing of it.

W. Cooley - Reads the instructions to the Comm^r who met the Cherokees at Fort Smith.

W. Ewing - No good results can be arrived at by discussing this question at large. If the United States are willing to make a treaty with the Cherokees, all right - If not, the physical power of the Government is strong enough to take away their lands and do with them as they please. There were feuds among the Cherokees, perhaps more marked than others. Did the General Government destroy the Nation by reorganizing and separating the factions? After President Polk recommended to Congress a division of the Country, the recommendation was revoked by calling both parties here for the purpose of making the Treaty of 1846, which was satisfactory to both parties till the feuds abated.

Gen. Standwaite proposed to John Ross a Complimentary toast at a public dinner after the Treaty of 1846 and "buried the hatchet." Since then there have been no considerable feuds till new issues grew out of the war, till the "Knights of the Golden Circle" were opposed by the "Pin Society" of the Loyal Cherokees; till the first signs of the storm which burst in 1861. Then there was violence of all kinds and that has continued till the end of the rebellion. But will the men who fought for the Confederate

Government be allowed to make the diversions growing out of the war a ground for a destruction of the Nation?

Mr. Voorhes - I understood that point was not to be discussed.

Mr. Ewing - I only alluded to "Pin Do City" which arose in 1858. All later feuds grew out of the issues which brought on the rebellion. It is not right for the General Government to destroy the Cherokee Nation after it has stood by it, and fought for it during the war. I do not believe it will be done so long as a spirit of loyalty and justice controls the administrative departments of the Government.

It is the duty of the Govt. now that the war is over, to see that the feuds are not taken as pretexts for aggressions of one against the other. It will be done. We are willing to guaranty protection to the disloyal by a treaty that the U. S. can enforce. Those who do not want to live among the Loyal Cherokees can go to the Canadian District and live there.

Mr. Voorhes - There is not enough land.

Mr. Ewing - Do you know how much land there is?

Mr. Voorhes - Yes. 250,000 acres.

Mr. Ewing - There is greatly more than that. But that is enough for such portion as do not want to live at their homes. That would give 160

acres to each head of family that would go back in 15 years

Mr. Voorhes — There are not 200 in all back in the Country. You think there are few who would not be willing to live at their old homes. I would like to know your estimate

Mr. Ewing — But a small proportion would go to the Canadian District in preference to remaining at their old homes. Better do as proposed by the Treaty. Let the President through the Secretary of the Interior and Commr. of Indian Affairs execute the guaranty in favor of the disloyal. Give them back their homes, admitting 6,500 if they all went, allowing the low estimates of Mr. Voorhes as to amount of land in the Canadian District there would be over 160 acres to each head of family. Nine tenths had homes north of Arkansas River and I think a large portion would go back home. The Gov^t can call them together hereafter if necessary, and give them more land. Give them the Canadian District for as long as the President says, for their exclusive use.

I do not see why a loyal executive should consent to the disruption of that ancient Nation at the request of rebels, on account of friends of the rebellion.

Down to 1846 the Standwaiter party had been demanding a division. The General Gov^t refused to allow it. If it is done now it will be nothing but a premium for disloyalty. It must be so regarded

by the Cherokees who have been true to the Govt. and who will never consent to the division of the nation. Mr V. says they have distracted and torn the nation and the Government should be wearied with the effort to retain the unity of the Cherokee Nation. Let him point to an Indian tribe from the Lakes to the Pacific that has been so wisely governed as them. Common schools, Churches, Seminaries, -well filled, -cover the Country; and they have a Govt. more just and firm than any Govt. of whites on the frontier. The Cherokee Govt. has been a great achievement for the Indians and a success of the Genl. Govt. in its policy towards them.

Mr. Voorhes - The only names on general document leading the Cherokee nation into rebellion are the men Mr. Ewing represents. John Ross says he represents the Cherokee Nation. We were led into the rebellion by men who are represented here by Mr. E. The only difference ^{between us} is that they were false to two Govts. and we were only false to one. The Ross party left when success was waning.

Mr. Ewing - Do we discuss personalities or business?

Mr. Voorhes - I was speaking of John Ross as the head of the Nation.

Mr. Ewing - Then I, as his friend, will claim to be heard at large in reply.

Mr. Cooley - I would like this question left out, but the Societies "Pin" and "Golden Circle"

may be explained

Mr. Voorhees - The actions of these men were such as to lead the Cherokee Nation into the war.

Gen. E. - There are men here who can tell you more about the loyalty of the party I represent. Let some of them speak for themselves.

Mr. Jones - I fought for the Govt. of the U. S. as did many others of us.

Mr. Beuge - And I, and others of us.

Mr. Voorhees - I do not speak of you. Your Counsel should not speak of "preminence to disloyalty"

Mr. Ewing - Do you put the body of the people you represent upon the same footing of loyalty as those I represent?

Mr. Voorhees -

Mr. Ewing - The Treaty discussion is ended, Mr. Ross' friends wish to defend him at large.

Mr. Voorhees - I have some friends who too shall speak.

Mr. Ewing - Mr. Ross is sick and cannot vindicate himself from personal aspersion, but his friends will vindicate him.

Mr. Voorhees - I would not injure the old man. I have no personal feeling against him.

Mr. Cooley - Speak of societies, not of

persons.

Mr. Voorhees — I will not discuss it if it is disagreeable.

Mr. Ewing — It is disagreeable because it is irrelevant — he need not talk about individuals, but about the character of the Cherokee people as a body and Gen. Standwaite's party as to loyalty.

Mr. Voorhees — You speak of "premium to disloyalty," — Your men, in their official capacities, took these men into the Confederate Army.

Mr. Ewing — Avoid discussions as to individual acts, for we merely waste time in discussing them.

Mr. Voorhees (Reads from John Ross' message to Congress) Under league of official authority of Cherokee Nation nearly all went into the war. Mr. E. says he represents men who were loyal from the beginning —

Mr. Ewing — Discuss the question of the Community at large, not the acts of particular men.

Mr. Cooley — He is reading an official document.

Mr. Voorhees — I do not understand this as striking personally at any one.

Mr. Cooley — You can read any official document.

Mr. Voorhees reads from reply of southern Cherokees to the Memorial of Delegates to Cherokee Nation — showing that Cherokee people, with great unanimity, launched in the same boat. These men were in company with

men who have no right to taunt them. I have no desire to extenuate, or lessen their offences, Indians may do wrong or they may do right, but in either case, as wards of the Govt they must be protected. I call the attention of Mr. Ewing to Col Bell's report - Indian Report 1865 page 300 - That is additional evidence that these men cannot live in peace. If you want to prolong this strife, keep the Cherokees together, if you would stop it, separate them.

Mr. Cooley - What do you say to ^{a proposition of} having the Canadian District permanently? (to Mr. Voorhees)
Suppose the District a larger one or of a different shape?

Mr. Voorhees - We want a place by ourselves - away from our enemies - We have said where we want it. (shows it on the map.)

Mr. Cooley - Any other remarks on the proposition?

Mr. Voorhees - Our propositions are more in accordance with a spirit of advancement than either of the others. They propose to sell the neutral lands for one million dollars, we for half that.

Mr. Cooley (to Mr. E.) - I would like to hear if you will accede to ^{the} proposition.

Mr. Ewing - I am not surprised at Mr. Voorhees' speech. The Cherokees will not treat on the theory that the Nation was for a moment disloyal. My remarks on feuds between factions may have opened the door and he has followed by arraigning

the Cherokee people as double traitors.

Mr. Cooley - I did not so construe his remarks.

Mr. Ewing - The bulk of the Cherokee people have always been loyal and did all they could to sustain the Govt.

Mr. Cooley - Do you deem the remarks of Mr. V. to have opened that discussion?

Mr. Ewing - I do.

Mr. Cooley - We did not think so but if you deem it otherwise we will hear you.

Mr. Ewing - He said they were disloyal to one, and we were disloyal to two Govts and that we abandoned a sinking cause because it was the most practicable thing to do -

Mr. Voorhees - I distinctly gave credit to some of the men for being loyal throughout.

Mr. Ewing - On that theory - that we were disloyal to two, and they to only one Govt - if all these sacrifices through four years of war are to be counted against us, the Govt would be right to break up the Cherokee Nation.

Just so soon as they could get out of Rebel clutches they turned and fought bravely for the United States.

The U. S. should not let the disloyal portion accomplish through their treason what they could not accomplish for 25 years before - the disruption of the Cherokee Nation. It will

hardly be done by a loyal Executive or Senate.

Mr. Voorhes - (to Mr. Cooley) Your instructions do not appear very hostile to it.

Mr. Ewing - That very message (the one Mr. V. read of Mr. Rep's) was approved as discreet by the President, Secretary of the Interior and Commissioner of Indian Affairs. The records of this office show their approval. It was done to prevent the Cherokee Nation from having the Govt. of their people wrested from their hands and given over to the Standwaiter faction who were seeking to treat with the Confederate Govt.

They broke away from the Rebels at Pea Ridge, which was the first opportunity, and fought as bravely as Kansas or Missouri men thereafter on our side.

You cannot separate the Nation without wiping out the history of that Western Campaign.

The records of this office stamp as untrue these Calumnious assertions of disloyalty - Reads from Indian Report of 1861 - pages 47+48 - 1862 pages 25+28 - 1863 pages 23+223 - I could show that the President and Secretary of the Interior approved the Treaty with the Confederate Government as having to give way to surrounding influences, and we are to be told After four years of struggles, losses trials and troubles, these men are to be treated as though the only difference between the Cherokee Nation and Standwaiter's faction is that the latter was only treacherous to one

Govt. while the former was treacherous to two.

The Commission in disposing of questions before it should bear in mind that those men have been, as far as practicable traitors, the Cherokee Nation as far as practicable loyal.

As to the question suggested by Mr. Cooley whether the Cherokee Nation will ^{Consent to} set apart any other country than that named in the proposition I cannot say now. They will give no more in addition to the Canadian District.

Mr. Voorhees - Will they agree to give that for perpetuity?

Mr. Ewing - No. For as long as until the President revokes the Consent. As to railroads. Of what use would such a large Grant of land be to them? Would the Cherokees want to buy back from the Rail Road Co. the lands they gave them for nothing? It breaks down the barriers between the Indian people and the aggressive whites on the border.

Mr. Cooley - Do you not think the other proposition would be better?

Mr. Ewing - No.

Mr. Cooley - Suppose the same condition of funds existed as existed before 1846, what injury in fact would it do the Cherokee Nation to be separated?

Mr. Ewing - The Cherokees ^{as a nation} are an older ^{have an} Govt. ~~Nation~~ than our own United States Govt.

They are proud of their traditions, and will refuse to be divided. It is like the advice of England in regard to the South. They want to go - our National pride and honor forbade it and we refused to be separated.

Mr Cooley - then referred to the past and present history of the Choctaws and Chickasaws.

Mr. Doohes - The Cherokees were once divided into two bands, Eastern and Western Cherokees and were afterwards re-united.

Mr. Jones - In 1819, one portion of them who were in a wild state asked for larger hunting grounds, which were granted them and their moving further westward caused a necessary separation of the nation till 1834, when they were again brought together and consolidated as a Nation.

Mr. Ewing - The Commissioners and we do not want a separation. Put in any provision you please to prevent unequal laws or individual aggressions of the Nation or against the disloyal faction.

Mr. Cooley - We have made some progress and got the views of the different parties.

Mr. Sells - I make a proposition - Let each own their land but live under the same Government

Mr Doohes - And meet in the same

Council?

Mr. Ewing - Could not answer positively -

Mr. Voorhees - (to Mr. E.) I like your suggestion about Arkansas River.

Mr. Cooley - As we are under the immediate superintendence of the Secretary of the Interior we will present our report now and act at some other time.

Meeting adjourned.

Pursuant to mutual understandings a meeting of the Cherokee Delegates and ~~John D.~~ ^{certain} N. Cooley for the purpose of arranging ^{certain} clauses in the Cherokee treaty with the United States to suit all parties concerned, was held at the Indian office, May 11th 1866. As the matter could not be satisfactorily arranged between the Cherokees themselves, ~~John D.~~ N. Cooley on the part of the United States, presented the following proposition as amendments to certain clauses in the treaty proposed by the Northern Cherokees, and expressed a determination to adhere to the provisions proposed by him. ~~and which are hereto appended.~~

Mr. Ewing said, on the part of Northern Cherokees, that the delegation were prepared to consider some of the propositions presented by Mr. Cooley, but they would not agree to a further cession of country or a division of ~~some~~ lands or funds with the Southern Cherokees.

Mr. Cooley said it was the intention of the Gov^t. to deal first and best with the Northern Cherokees and give them the choice, whenever there was a choice to be made, but

that the Southern Cherokees must be protected. He told them he could not agree to buy the land offered by them unless some part of their designated line (97° west Longitude) was given with the other, as the ~~history~~^{description} as recorded in the office, and as by outside inquiry he had learned, - of that land shows ^{it to be} very poor. - There could be no doubt of its almost utter worthlessness for agricultural purposes, and no Indians would live on it. Mr. Cooley gave the reasons for introducing each amendment, separately, and urged their adoption, that they were fair, - the Govt. would not act otherwise than fairly with them, - and that his instructions were to make these propositions as an ultimatum; that, said he, is what the Govt. understands ~~it~~^{them} to be.

Gen. Ewing then said he supposed the negotiations were at an end. He wished to present the decision of the delegation in writing.

Mr. Cooley said - You have read our propositions it only remains for you to consent or reject -

The Cherokees then left. Mr. Ewing promising to submit their views in writing.

What will be insisted upon.

✱

1st A provision that the Northern Cherokees have a country north of the Arkansas and on the east part of the Cherokee Country - (East of the Grand below Ross' Ford, - and so far west of that line extending to north line of Indian Country) Equal to ~~32~~ 32 acres to each Cherokee, man woman and child and 20 acres for each person of color (formerly a slave to any Cherokee) who may remain in said Country.

2^d Such Cherokees as may on account of former feuds, and differences as now exist in said Nation and who now reside in the Canadian district or west of Grand River and east of $95\frac{1}{2}^{\circ}$ W. Longitude - and such as go into said District to reside within one year shall have for his or their use 100 acres for each Cherokee so residing in said District, and 20 acres for each freedman so there, who was the former slave of any such Cherokee, and such Cherokee so removing within said District shall have their pro rata share

of the School fund - equal right to participate in the benefits of the Academies and Seminaries of the Cherokee Nation, - and dollars out of the avails of the sale of territory to the United States, their equitable proportion of all the funds of said nation - and while they remain in said separate territory.

#3rd. The Cherokee National authorities shall not have local jurisdiction over them, but so far as their dealing with the United States they shall be considered a part of the Cherokee Nation, and in case the ^{two} bands of Cherokees shall hereafter so determine they shall be reunited.

#4th. A Census of the Cherokees in the Nation and those outside in the District above shall be taken within one year under direction of the Agent &c.

#5th. The improvements of those now in the district above, belonging to such Cherokees as may within one year desire to return to Cherokee Country east of the Grand and west of the Arkansas shall be paid for by those going into said District

#6th. The laws of the Cherokees providing for a confiscation of property to be void, and the improvements to be restored to such persons as decide to return to their homes.

6

And provided, that the President may, if, upon representations made to him of the condition of affairs among the Cherokee, he shall consider that the general welfare, peace, prosperity, and interests of the said Cherokee require it, declare and enforce a full separation between the two parties of the nation, and cause to be made a just and equitable division of the territory and property between said parties; and when such division shall have been made, each party shall exercise separate and exclusive jurisdiction over its portion of the Cherokee country.

Convention with Cherokees

Hon D. N. Cooley & Sup^t

Elizah Sells on the part

of N. S. & Mrs Ewing &

Voorhes for Cherokees

May 3^d 1866

Conferenced between Loyal and disloyal
wings of Cherokee nation, and Hon. D. W. Cooley,
Commr. of Indⁿ Affairs & M^r. Jells Supt. Indian Affairs
May 3^d. 1866

—*—

M^r. Cooley (to M^r. Ewing) Can you say what the
Northern Cherokees are willing to do?

M^r. Ewing— The delegation agree to the Cession
of all Country west of 97° (Reads article
7 of the Treaty) "The Cherokees hereby Cede
to the United States in trust, exclusively for the
settlement thereon of other tribes of civilized and
friendly Indians, all that part of their Country
lying west of the meridian of the Western point of
the big bend of the Arkansas River, estimated to
include about eight millions of acres; the Country
to be sold by the United States at such price as
may be agreed on between the Cherokee Nation and
such tribes or parts of tribes as may wish to settle
there, — and in case of disagreement the price shall be
fixed by the President of the United States — and such
Cherokees now living upon and wishing to remain on
the lands Ceded by this article, as well as such as choose
to go there to live within one year from the ratification

2

hercof, shall have ~~other~~ lands set apart to them by the Secretary of the Interior, not exceeding 160 acres to each person, which shall be granted them without cost, in common or in generalty, as the President may direct, and shall be paid by the Secretary of the Interior out of the proceeds of the sale of lands ceded in this article, fifty dollars per Capita, to enable them to establish themselves and become selfsustaining, and shall also have set apart to them, out of the proceeds of the sale of lands ceded in this article, school funds equal in proportion to their numbers to the school funds now set apart to the Cherokee Nation, but no Cherokee who voluntarily remains on the land ceded by this article after the expiration of one year from the ratification hereof, or who goes there to live before the end of such year, shall have the right to any further benefit of treaties now or hereafter existing between the United States and the Cherokee Nation, or any further interest in the funds or lands of said nation.

And no Cherokees who hereafter elect to return to and reoccupy their homes under the provisions of the 3rd article of this treaty, shall have the right to settle on the lands herein ceded, and all Cherokees who

" Relinquish their privileges as Citizens of the Cherokee Nation to go upon the lands Ceded in this Article, shall prior to receiving any benefit therefrom, take an oath of loyalty to the Gov^t of the U. S., and shall further swear never hereafter to interfere with, or to attempt to set aside any of the treaty provisions of any of the Nations or Tribes in the Indian Territory with the Gov^t of the U. S., - and the proceeds of the sales of all the lands Ceded in this Article, save so much as is hereinbefore otherwise disposed of, shall be invested in U. S. 5 per Cent securities, and held in trust by the United States by the Cherokee Nation, and the interest thereon shall be semi-annually paid to the Treasurer of the ~~United States~~ Cherokee Nation to be applied to the following purposes: - for the War Fund, fifty per Centum, - for the School Fund, twenty five per Centum, - for the orphan Fund, twenty five per Centum, - ^{and provided, further,} ~~for the orphan Fund~~ that all the lands Ceded in this Article shall be disposed of, and placed in securities, to be held in trust for the Cherokee Nation, within three years of the ratification of this treaty."

We invite the Delawares, Shawnees, Senecas and Potto-
 watomies to Come among us and settle, They are to share
 benefits ^{in proportion} ~~according~~ to their numbers

Mr. Ewing - Continuing - read article 3^d of the treaty which allows all disloyal Cherokees to return and resume their citizenship on taking an oath to keep the peace and conform to the National Law hereafter, and allows a reoccupation of their old homes on condition of their paying present value of all improvements, but to allow the present occupants to remain till the 1st of Dec. next. Present occupants to be reimbursed from Cherokee Nat. Treasury the amount paid for the property. It also provides that they shall not sue or be sued for damages sustained or given during the rebellion, but to commence their citizenship and with all previous wrongs mutually forgiven.

Mr. Cooley - Do you know that these tribes will come and live with you as Cherokees?

Mr. Ewing - Individuals express themselves in favor of the project. We cannot speak for any whole tribe, but suppose they will.

Mr. Cooley - The Kansas Shawnees made a treaty last winter in which they agreed to buy lands and made provisions for a tribal fund and Gov^t of themselves.

Mr. Sells - Read letter relative to treaties made with Senecas + Shawnees.

W. Cooley— Have you any knowledge, or any official notice of any band wishing to live with you as you propose?

W. Ewing— No, no full band.

W. Cooley— A tribe accepting your offer would lose its sovereignty, as a tribe would it not?

W. Ewing— Yes, but the Cherokee Govt. is such an excellent one; for they have Courts and laws similar to ours. It is the best one there and a great many would be glad to live under it.

W. Cooley here spoke, of a similar proposition by the Choctaws and Chickasaws.

W. Ewing— W. Ross says he had an understanding of this kind with the Delawares but the project was not put in operation.

W. Cooley— As to the boundary. The Country west of 97° is spoken of as very poor. The records of this office say so. I have studied the history of that Country and am convinced that the land west of the Great Bend of the Arkansas River is very poor. The 8 millions ^{of acres} you offer would be of little use to us. If we buy lands there we must have some east of 97° along with it.

It was a noticeable fact throughout the conversation that the delegation were determined to give no lands west of 97° for sale.

Mr. Ewing — I think it is a good country — The delegation say it is a beautiful one.

Mr. Cooley — I think it a bad plan to force men to go there.

Mr. Ewing — The Gov^t is called upon to see that they are protected in their rights. Col. Phillips writes that notorious guerrillas who devastated the country during the war are living there peacefully and uninterfered with now. Some of these men offer to come back and buy their places.

Mr. Cooley — How many are at their homes?

Agent Harlan — When I left there, (about Dec 26th) there were about 100 on each side of the Arkansas River. A great many have come back since. I cannot say how many are there now.

Mr. Ewing — The delegation are informed that nearly all have returned to Cherokee Country.

Mr. Cooley — Do your delegation refuse to dispose of any land east of the Great Bend?

7.

Captⁿ Bangs — No. There is no use talking.

We will go no further east. We did not come here on purpose to sell. The Gov^t said they wanted to buy land.

Mr. Cooley — I would not sign a treaty of that kind. Every delegate who was at Fort Smith went home satisfied that Gov^t wanted some Arable land. This land is poorly recommended. I said last fall at Fort Smith that Northern Cherokees ought to have the first choice, but the good Southern Cherokees should be dealt with justly afterwards. I want to hear what the Northern Cherokees have to say, and then will confer with the Southern Cherokees at another meeting. The Southern Cherokees say they cannot go back to their homes and live in peace. You say they can. The Commissioners cannot settle that matter. There are many Cherokees said to be in Choctaw & Chickasaw Country now.

Mr. Ewins — We proposed to give the Southern portion a separate district in the Cherokee Country.

Mr. Voorhees — We would rather have a smaller Country. We do not want to break up the nation, but we feel that we cannot live at peace with you,

8

and so we ask to be permitted to live distinct
and separate, at least for the present. Time
may ~~beat~~ ^{close} the breach between us.

Gen. — is there now, trying to bring our
people together and protect them in raising
Crops this season. We want a separate
jurisdiction; to govern ourselves.

We do not propose to change our name. The
Nation was once divided and the divisions were
called "East" and "West Cherokee."

Mr. Jones — They were 800 miles apart was the
reason.

Mr. Voorhees — The Choctaws and Chickasaws were once,
so.

Mr. Ewing — The Cherokee offer these men homes and
call upon the Govt. if necessary to interfere
and protect them in their rights.

As to the division of lands, division of
funds, and other things, common property of
the Nation, we will not do it. If you
argue that you might as well send this del-
egation home at once. The loyal Cherokee
do not see any good reason for separation
and their National pride will not let them

do it. The delegation would consider a proposition from Southern Cherokees giving some place in our Country other than the Canadian District for their settlement, but we will not separate.

Mr. Voorhes — Are not the Presidents instructions the same? They say "reconcile and live together if you can". Let the people decide this matter. If they refuse to become reconciled then divide the Country and funds between them.

Mr. Ewing — The Cherokees do not recognize the Pres. of the U. S. as governing them.

Mr. Cooley — Our great desire at Fort Smith was to effect a reconciliation between the the two wings of this nation and the desire is just the same now

Mr. Voorhes.
Mr. ~~Cooley~~ — We don't say we will not make a treaty. We may have been wrong and they may be wrong. Let the Gov^t act on facts ^{on} not ~~be~~ ~~governed~~ what we say. Without impugning the motives of these gentlemen here I will say we ^{fear we} cannot trust these offers to be carried out in good faith.

Mr. Ewing. — That difficulty can be overcome by going into a separate district. In this propⁿ.

In this propⁿ. nothing was said about Canadian district because they were given the privilege of returning to their homes. The Secretary said he thought they would nearly all return.

He thought the propⁿ. allowing all to go home and the few discontented to settle west of 97° was fair and liberal, allowing each 160 acres, and allowing them the proportion of school fund.

Mr. Cooley — They should not be forced into anything. They are kept out this year. They have to pay at last for improvements on their homes.

Mr. Ewing — I think the delegation may assent to their having special occupancy of a larger district than Canadian District, but be governed by ^{the} laws of the Cherokee Nation.

Mr. Voorhees — What do you say about Railroads?

Mr. Ewing — Allow them the right of way.

Mr. Voorhees — About Territorial Government?

Mr. Ewing — Same as in former draft. The Secretary has told us he wanted that Country for exclusive Indian territory, with the hope it may some day become an Indian State.

Mr. Cooley — Would they accept an Indian Territorial Government similar to that offered in Bill 59?

of the last Senate?

Mr. Ewing — Article 12 of the Treaty explains
the Territorial Gov^t Clause.

Adjourned.

100 100 100 100



Papers connected
with negotiations
with
Cherokee
1866.

Proposed
written by
Chas. C. Smith
for the Cherokee
May 3. 66

Articles of Agreement and Convention,
Concluded at the City of Washington on
the day of in the year of our
Lord One thousand eight hundred and
Sixty Six by and between the United States,
represented by Dennis H. Cooley, Commissioner
of Indian Affairs, Elijah Sellz, Superintendent
of Indian Affairs for the Southern Superintendency,
and Col. Ely S. Parker; and the Cherokee
Nation of Indians represented by its Delegates.

Preamble.

Whereas, existing Treaties between the United
States and the Cherokee Nation have become
insufficient to meet their mutual necessities,

the United States by its Commissioners, and
the Cherokee Nation, by the above named
Delegates, the day and year above mentioned
mutually stipulate and agree, on behalf
of their respective parties, as follows; to wit:-

Article 1. There shall be perpetual
peace and friendship between the parties
to this Treaty, and the Cherokees bind
themselves to remain firm Allies and friends
of the Government of the United States, and
never to take up arms against it. They also
agree to remain at peace among themselves,
and with all other Indian Tribes; and in
return the United States guarantees their
quiet possession of their Country and protection

against hostilities on the part of other tribes;
 they shall, also be protected against inter-
 =ruption and intrusion from the Citizens of
 the United States, who shall attempt to settle
 in their country, without their consent, and all
 such persons shall be removed by the Authorities
 of the United States, on complaint of the Cherokee
 Nation. In the event of hostilities, the United
 States agree that the party or parties commencing
 and prosecuting the same shall make just
 reparation therefor. To insure the protection
 herein guaranteed, the United States agree
 to station and continue in the Cherokee Country,
 from time to time, at their own expense, such
 force as may be necessary for that purpose.

Article 2. — The Cherokee Nation, having voluntarily, in February 1863, by an Act of their National Council, forever abolished Slavery, hereby covenant and agree that never hereafter shall either Slavery or involuntary servitude, exist in their Nation, otherwise than in the punishment of crime, whereof the party shall have been duly convicted in accordance with laws applicable to all members of said tribe alike, or freedmen therein; They further agree that all freedmen who have been liberated by the Cherokee Nation, or any citizen thereof, and all their descendants, as long as the Nation holds lands in common, shall be allowed to occupy, improve and cultivate such tracts, now unoccupied

by Cherokees, as shall be designated for them by
the Authority of the National Council, - And in
case of a future sale by the Cherokee Nation, of
lands so held by freedmen or their descendants,
they shall be entitled to receive, out of the pro-
ceeds, the full value of their improvements, - and
such freedmen and their descendants, shall
have the same right to remain in the Cherokee
Country, to acquire and hold personal property,
and to sue and testify, and the same liability
to be sued in all Courts held therein, as belong
to the Citizens of the Nation, - And, in case of the
adoption of the hereinafter recited provision as
to the sale of the "Neutral Lands," the Cherokee
Nation will at all times, apply funds out of the

proceeds of such Sale, for the Education of such persons, so as to give them equal advantage of Common School Education, with the children of their own people.

Article 3.— The Cherokee Nation promise and agree that a full pardon shall be granted all members of their Nation who have been disloyal to it and to the United States, and affiliated with the enemies of the Federal Government in the late rebellion, and that they may return to and occupy their homes and participate in the Councils of the Cherokee Nation, and equally enjoy the benefits of all treaty stipulations with the United States, on condition that they take an oath and file the same in the Office or records of the Supreme

Court of the Nation, that, they will at all times here-
 after, keep the peace, and obey the laws of said
 Nation, and its treaty stipulations with the United
 States. But no suits shall be brought or maintained
 by them for personal property lost or taken during
 their absence while aiding the rebellion, - nor shall
 any suits be brought against them, for damages done
 during the war, - and that in case any of the farms
 or houses of the disloyal Cherokees shall have been
 sold by the Cherokee Nation, under its Confiscation
 Act, and shall be reoccupied by such disloyal Cher-
 okees, the Nation shall refund to the present holder
 the purchase money out of the National funds,
 together with the present value of all improvements
 made since the sale of such property, - and such

former owner, thus re-occupying, shall pay to the Cherokee National Treasurer, within three years from the ratification hereof, the present value of all improvements made since the sale of such property by the Nation, provided that the re-occupation of such farms as are now occupied by persons holding under title from the Cherokee Government, shall not be allowed until after the 1st of December next, and provided further, that all claims for re-occupation of such property shall be made to the Judge of the Cherokee District Court, in whose District such property may be, on or before the 1st day of February 1867. And the Secretary of the Interior shall ~~make all necessary~~ properly carried out: ~~regulations for carrying into effect the provisions~~

~~of this Article.~~

Article 4 — The Cherokee Nation hereby agree to grant a right of way not exceeding 200 feet in width through their lands, to any Company which shall be duly authorized by Congress to construct a Rail Road from any point North of the Cherokee Nation to any point South of the same, or any point East to any point West thereof, provided that the Company authorized to build the North and South road shall erect a Station at ~~the river~~ Fort Gibson, And the Company authorized to build a road East and West, shall, if the route be surveyed in that direction, erect a Station at Tahlequah, and provided further that whenever such

Rail Road shall be authorised, the rights of the Company or Corporators controlling it, and of the persons employed in constructing it, shall be confined strictly to the construction and operation of the road itself, except as further powers may be granted by the Authorities of the Nation, and approved by the Secretary of the Interior, - and provided further that this grant shall not be made a cover for the introduction of Settlers or trade or any others save the necessary employees, for construction, and for the running and management of the road and its depots, - and that there shall be a rigid enforcement of the intercourse laws, - and that trade shall be regulated in the Nation by the provisions of Article 6th of this Treaty;

11

Article 5. — That wherever Military Posts or Sta-
-tions are, or may hereafter be established in the
Cherokee Nation, they shall be used and occupied
only for their legitimate Military objects or purposes,
and shall not be made a nucleus for white Set-
-tlements or trading Stations. — and that trade
shall not be permitted therein, save to the Army
and its proper attendants, under any regulations,
by any person save those amenable to Cherokee
law, and authorized to trade under the 16th
Section of this Treaty, — And in case any of the
Posts, Forts or Stations, now or hereafter established
in the Cherokee Nation, shall be abandoned by
the United States, they shall revert to said
Cherokee Nation.

Article 6. No person shall expose goods or other Articles for sale as a trader without a written permit of the constituted Authorities of the Nation, subject to the regulation of its laws, or authority of the laws of the Congress of the United States, under penalty of forfeiting the articles; and the constituted Authorities of the Nation shall grant no license except to such persons as reside in the Nation, and are answerable to the laws of the Nation. The United States shall be particularly obliged to assist to prevent ardent spirits from being introduced into the Nation.

Article 7. The Cherokees hereby cede to the United States in trust, exclusively for

the settlement thereon of other tribes of civil-
and friendly
-ized Indians, all that part of their country
lying West of the meridian of the Western
point of the Big Bend of the Arkansas river,
estimated to include about Eight Millions of
acres; the country to be sold by the United States
at such price as may be agreed on between the
Cherokee Nation and such tribes or part of tribes
as may wish ~~wish~~ to settle there, - and in case of
disagreement the price shall be fixed by the
President of the United States. - and such Cher-
-okeses now living upon and wishing to remain on
the lands ceded by this Article, as well as such
as choose to go there to live within one year from
the ratification hereof, shall have lands set apart

to them by the Secretary of the Interior not exceeding
One hundred and Sixty acres to each person,
which shall be granted them without cost, in com=
=mon or in severally, as the President may direct,
and shall also be paid by the Secretary of the Interior
out of the proceeds of the sale of the land ceded
in this Article, Fifty dollars per Capita, to enable
them to establish themselves and become self sus=
=taining, - and shall, also have set apart to them
out of the proceeds of sales of lands ceded in
this Article School funds equal in proportion to
their numbers to the School funds now set apart
to the Cherokee Nation, - but no Cherokee who
voluntarily remains on the land ceded by this
Article, after the expiration of one year from the

ratification hereof, or who goes there to live before
the end of such year, shall have the right to any
further benefit of treaties, now or hereafter existing
between the United States and the Cherokee Nation,
or any interest in the funds or lands of the Nation;
And no Cherokees who hereafter elect to return to,
and reoccupy their homes under the provisions of
the 3rd Article of this treaty, shall have the right to
settle on the lands herein ceded, (and all Cherokees
who relinquish their privileges as Citizens of the Cherokee
Nation to go upon the lands ceded in this Article,
shall, prior to receiving any benefits therefrom, take
an oath of loyalty to the Government of the United
States, and shall further swear never hereafter
to interfere with, or to attempt to set aside any of the

treaty provisions of any of the Nations or tribes in the
 Indian Territory, with the Government of the United
 States, - And the proceeds of all sales of the lands
 ceded in this Article, save so much as is hereinbe-
 fore, otherwise disposed of, shall be invested in
 five per cent
 United States Securities, and held in trust by the
 United States
~~Secretary of the Interior,~~ for the Cherokee Nation,
 and the interest thereon shall be, Semi Annually,
 paid to the Treasurer of the Cherokee Nation, for-

to be applied for the following purposes: - for the
 National Fund, fifty per centum - for the School Fund,
 twenty five per centum - for the Orphan Fund,
 twenty five per centum, - And provided, further,
 that all the lands ceded in this Article shall
 be disposed of, and placed in Securities, to be
 held in trust for the Cherokee Nation, within
 three years of the ratification of this Treaty.

Article 8th And the Cherokees hereby agree
to receive into the country still retained by
them, the Delawares, Shawnees, Kickapoo, Seneca

Pottowatomies, and such other tribes as may wish to join them, and as they may consent to receive, and that eligible districts be set apart for their use and permanent homes, - Said locations, and the terms on which they shall be made, shall be arranged between the Authorities of the Cherokee Nation, and the tribe or tribes thus accepted into the Nation, - And, in case of disagreement; unoccupied districts may be selected by the Secretary of the Interior - And should the parties not be able to agree as to the price to be paid for the privilege of thus using and occupying these lands, it may be fixed by the President. And the Cherokee further agree that the members of these tribes so settling in the Cherokee Nation, shall have equal participation and representation with their own people, in the Common Government, in proportion to their numbers,

Exclusive right of selecting their own local Officers,
 and equal protection and privileges under the Na-
 tional Laws; and equal share and benefit in all
 the funds, property and treaty rights of the Nations
 Provided, that, each tribe, so settling in the Cherokee
 Country, shall first pay, in addition to the equiva-
 lent for equal proprietary interest in the Cherokee
 Nation, a sum equal to the value of the Chero-
 kee funds, in proportion to the numbers of such
 tribe or tribes; which shall be invested by the Uni-
 ted States in her five per cent registered securities.
 And in case the Cherokee Nation and such tribes
 shall be unable to agree as to the amount to be so
 paid and invested, it may be fixed by the President,
 as being a fair equivalent for the privileges rendered.

And such tribes located in districts may retain all necessary Municipal tribal regulations, not inconsistent with the laws of the Nation, and shall have a right to an equal proportion of Schools, and in case of the establishment of the General Council provided for in Article 12 of this treaty, such tribes so settling among the Cherokees, shall be ^{equal proportion of} entitled to ~~separate~~ representation in such Councils. And should either of the above named tribes, or individuals of these or other tribes that they may consent to receive, agree to come into the Cherokee Nation to settle as individuals, instead of in communities, the Cherokee Nation hereby agrees to accept of them, and to give them all the privileges of Cherokees, upon paying a fair equivalent

for their share of lands, funds, and other property, such amounts to be agreed to between the parties when possible, and in case of disagreement, may be fixed by the President. And all moneys thus paid by tribes or individuals settling in the Cherokee Nation, shall be paid to the Government of the United States, which will invest them in five per cent United States Registered Securities, and hold them in trust for the Nation. The interest to be paid semi-annually to the Treasurer of the Nation, for the following purposes, and in the following proportions. - for National Fund, fifty per cent. - for School Fund, twenty five per cent, - for Orphan Fund, twenty five per cent.

and between
Article 9— It is further agreed, by the
parties hereto, that all that tract of land
belonging to the Cherokee Nation, known as
the "Neutral Lands" be, and the same is hereby
ceded to the United States, - in consideration of
which the United States hereby agree to pay to the
Cherokee Nation the sum of One Hundred and

Fifty Thousand Dollars, to enable the Nation to re-
-deem the improvements sold under the Confiscation
Act, and to pay the other debts of the Nation,-
And to invest in United States five per cent
Registered Securities a sufficient amount to
produce an Annual interest of forty two
thousand, five hundred dollars, and the
~~interest on~~ which shall be paid to the Treasurer
of the Cherokee Nation, Semi-Annually, in the
following proportions,- for National fund, fifty
per cent,- for School fund, twenty five per
cent,- for Orphan fund, twenty five per cent.
And further, to pay to such Cherokees as now
own improvements on these lands, the value of
such improvements.

Fifty Thousand Dollars, to enable the Nation to re-
-deem the improvements sold under the Confiscation
Act, and to pay the other debts of the Nation,
And to invest in United States five per cent
Registered Securities a sufficient amount to
produce an Annual interest of forty two

~~such improvements~~ The said lands to be sur-
-veyed and sold for cash in the same manner
that other lands are surveyed and sold; And if
any part of the "Neutral Sands" should fall within
the limits of any land grant heretofore made by

law to any rail road, the alternate sections shall be sold for cash at double the minimum price, under such rules and regulations as the Secretary of the Interior may direct, and the proceeds thereof be paid into the Treasury of the United States,

And the Cherokees hereby consent that said Territory may be included within the limits and jurisdiction of the State of Kansas, and, further, in case any portion of the Cherokee Country, other than the "Neutral Lands," is found to be included by the established boundary of the State of Kansas, the same ^{shall} ~~may~~ be sold by the President of the United States, at not less than \$1.25 per acre ~~(unless~~ the Cherokee National Council shall agree to a ~~price~~ ~~for all, or any part of it)~~ and the proceeds

of sale of such lands, shall be invested in United
^{five percent}
States Securities, and held in trust by the United
States as part of the permanent School fund of the
Cherokee Nation, and the interest thereof shall be
paid semi annually to the Treasurer of said Nation
~~forever.~~

~~funds in his hands not otherwise appropriated.~~

Article 12: — The Cherokees agree that a General Council, consisting of delegates elected by each Nation or tribe lawfully resident within the Indian Territory, may be annually convened within said Territory, which Council shall be organized in such manner and possess such powers as herein after prescribed.

First. After the ratification of this treaty, and as soon as may be deemed practicable by the Secretary of the Interior, prior to the first session of said Council, a census or enumeration of each tribe lawfully resident in said Territory shall be taken under the direction of the Superintendent of Indian Affairs, who, for that purpose

is hereby authorized to designate and appoint competent persons, whose compensation shall be fixed by the Secretary of the Interior, and paid by the United States.

Second. The first Session of the General Council, shall consist of one member for each one thousand Indians, or each fraction of a thousand greater than five hundred, being members of any tribe lawfully resident in said Territory, and shall be selected by said tribes respectively, who may assent to the establishment of said General Council, And if none should be thus formally selected by any Nation or Tribe, so assenting, the said Nation, or tribe shall be represented in said General Council, by the Chief or Chiefs, and head men of said tribes,

to be taken in the order of their rank, as recognised in tribal usage, in the same number and proportion as above indicated. — After the said Census shall have been taken and completed, the Superintendent of Indian Affairs shall publish and declare to each tribe assenting to the establishment of such Council, the number of members of said Council to which they shall be entitled, under the provisions of this Article, — And the persons entitled to represent said tribes, shall meet at such time and place as he shall approve, — but thereafter, the time and place of the Sessions of said Council shall be determined by its action. Provided That no Session, in any one year, shall exceed the term of thirty days, and provided that Special Sessions of

Said Council may be called by the Secretary of the Interior, whenever in his judgment the interest of said tribes shall require such special Session. — Third — Said General Council shall have power to legislate upon matters relating to the intercourse and relations of the Indian tribes, and Nations, and Colonies of freedmen resident in said Territory — the arrest and extradition of criminals and offenders, escaping from one tribe to another, or into any community of freedmen. — the administration of justice between members of different tribes and persons, other than Indians, members of said tribes or Nations. — All laws enacted by said Council shall take effect at such time as may be therein

provided, unless suspended by direction of the President of the United States. — No law shall be enacted inconsistent with the Constitution of the United States or laws of Congress, or existing treaty stipulations with the United States, — nor shall said Council legislate upon matters other than those indicated. Provided, however that the legislative power of such General Council may be enlarged, by consent of the National Council of each Nation or tribe assenting to its establishment, with the approval of the President of the United States.

Fourth: — Said Council shall be presided over by a member thereof, to be elected by a majority of members chosen, and shall hold his office

for the session at which he is elected, unless some other term of office shall be prescribed by law.

Fifth: — The Council shall elect a Secretary, whose duty it shall be to keep an accurate record of all proceedings of said Council, and who shall transmit a true copy of all such proceedings, duly certified by the Presiding Officer and to the Executive Authorities of each tribe or Nation represented in said Council, to the Secretary of the Interior, immediately after the Sessions of said Councils shall terminate. He shall be paid out of the Treasury of the United States, an annual salary of five hundred dollars.

Sixth: — The members of said Council shall be paid by the United States, the sum of four dollars "per diem" during the term actually in

attendance on the Sessions of said Council, and at the rate of four dollars for every twenty miles necessarily traveled by them in going to and from their homes, respectively, from said Council, to be certified by the Secretary and President of ^{the} said Council.

This article not agreed to

Article 13: - The Cherokees also agree that a court or courts may be established in said Territory by the United States, with such jurisdiction, and organized in such manner as is prescribed by law for District courts of the United States. Provided, that the judicial tribunals of the Nation shall be allowed to retain their proper jurisdiction in all causes, civil or criminal, arising within their Country, in which

residents of the Nation shall be the only parties

Article 14 - The parties to this treaty hereby re-
-affirm the obligations of all provisions of treaties
heretofore made between the United States and
the Cherokee Nation, not inconsistent with the
Articles of this treaty, and hereby agree to make
all payments of annuities or interest, accruing
by force of said treaty stipulations.

Denomination, or Society, which has erected, or

~~the Cherokees and such other persons as may be,~~
~~or hereafter become members of the tribe according~~
~~to its laws and customs.~~

Article 16— A large number of the Cherokees
who served in the Army of the United States,
having died, leaving no heirs entitled to receive
bounty and arrears of pay on account of such
service, it is agreed that all such bounties
and arrears for service in the 2nd and 3rd
Regiments of Indian Home Guard: United
States Volunteers, which shall remain unclaimed
by any person legally entitled to receive the
same, for two years from the ratification hereof,
shall be paid, as the National Council may
direct, to be applied to the foundation and

Support of an Orphan Asylum for the Education and maintainance of Orphan Children, which Asylum shall be under control of the National Council, or of such benevolent Society as it may designate, subject to the approval of the Secretary of the Interior. And whenever any Cherokee or other Citizen of the Cherokee Nation shall hereafter be employed in the service of the United States, Military or Civil, said Cherokee or other citizen of said Nation, shall in all cases be entitled to and receive from the United States, the same consideration and pay as Citizens of the United States, when serving in the same capacity.

Article 17— There being a considerable number of Cherokee Indians in States East of the Mississippi, who were not removed with the rest of the Nation and who desire to join their brethren in the Cherokee Country, it is agreed that the United States shall, at the expense of the General Government, remove all such Cherokees, and their descendants, and provide them subsistence for one year after removal, in like manner, as they removed

And subsisted the other Cherokees under the provisions of the Treaty of 1835. And all such Cherokees, so removed shall be received as members of the Nation.

Article 18: — It being difficult to learn the precise boundary line between the Cherokee Country and the States of Arkansas, Missouri and Kansas, it is agreed that the United States shall, at its own expense, cause the same to be run and marked, by permanent and conspicuous boundaries, by three Commissioners, one of whom shall be designated by the Cherokee National Council.

Article 19: — It is consented that a qualified Agent shall be appointed for the Cherokees every four years, unless sooner removed by the President, —

And he shall be removed on petition of the Con-
stituted Authorities of the Nation, the President be-
ing satisfied that there is sufficient cause shown.

The Agent shall fix his residence convenient to
the seat of Government. And in the selection
of an Agent, the wishes of the Cherokee Nation
shall be entitled to great respect. Provided, that
said Agent shall have no further Authority in the
affairs of the Nation save that which former treaties
and custom sanctioned.

Article 20— The Cherokee National Council or
any duly appointed Delegation thereof, shall have
the privilege to appoint an Agent to examine the ac-
counts of the Nation with the United States, at such times
as they may see proper, and to continue, or discharge

39

Such Agent, or to appoint another, as may be thought
best by such Council, or Delegation, - And such
Agent shall have free access to all accounts and
books in the Executive department relating to
the business of the Cherokee Nation.

TREATY
BETWEEN
THE UNITED STATES OF AMERICA
AND THE
CHEROKEE NATION OF INDIANS.

CONCLUDED JULY 19, 1866.

RATIFICATION ADVISED, WITH AMENDMENTS, JULY 27, 1866.

AMENDMENTS ACCEPTED JULY 31, 1866.

PROCLAIMED AUGUST 11, 1866.



ANDREW JOHNSON,

PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas a Treaty was made and concluded at the city of Washington, in the District of Columbia, on the nineteenth day of July, in the year of our Lord one thousand eight hundred and sixty-six, by and between Dennis N. Cooley and Elijah Sells, Commissioners, on the part of the United States, and Smith Christie, White Catcher, James McDaniel, S. H. Bengé, Daniel H. Ross, and J. B. Jones, delegates of the Cherokee nation, appointed by resolution of the national council, on the part of said Cherokee nation, which treaty is in the words and figures following, to wit:

Articles of agreement and convention at the city of Washington on the nineteenth day of July, in the year of our Lord one thousand eight hundred and sixty-six, between the United States, represented by Dennis N. Cooley, Commissioner of Indian Affairs, [and] Elijah Sells, superintendent of Indian affairs for the southern superintendency, and the Cherokee nation of Indians, represented by its delegates, James McDaniel, Smith Christie, White Catcher, S. H. Bengé, J. B. Jones, and Daniel H. Ross—John Ross, principal chief of the Cherokees, being too unwell to join in these negotiations.

PREAMBLE.

Whereas existing treaties between the United States and the Cherokee nation are deemed to be insufficient, the said contracting parties agree as follows, viz:

ARTICLE 1.

The pretended treaty made with the so-called Confederate States by the Cherokee nation on the seventh day of October, 1861, and repudiated by the national council of the Cherokee nation on the 18th day of February, 1863, is hereby declared to be void.

ARTICLE 2.

Amnesty is hereby declared by the United States and the Cherokee nation for all crimes and misdemeanors committed by one Cherokee on the person or property of another Cherokee, or of a citizen of the United States, prior to the 4th day of July, 1866; and no right of action arising out of wrongs committed in aid or in the suppression of the rebellion shall be prosecuted or maintained in the courts of the United States or in the courts of the Cherokee nation.

ARTICLE 3.

The confiscation laws of the Cherokee nation shall be repealed, and the same, and all sales of farms, and improvements on real estate, made or pretended to be made in pursuance thereof, are hereby agreed and declared to be null and void, and the former owners of such property so sold, their heirs or assigns, shall have the right peaceably to reoccupy their homes, and the purchaser under the confiscation laws, or his heirs or assigns, shall be repaid by the treasurer of the Cherokee nation from the national funds, the money paid for said property, and the cost of permanent improvements on such real estate, made thereon since the confiscation sale; the cost of such improvements to be fixed by a commission, to be composed of one person designated by the Secretary of the Interior and one by the principal chief of the nation, which two may appoint a third in cases of disagreement, which cost so fixed shall be refunded to the national treasurer by the returning Cherokees within three years from the ratification hereof.

ARTICLE 4.

All the Cherokees and freed persons who were formerly slaves to any Cherokee, and all free negroes not having been such slaves, who resided in the Cherokee nation prior to June 1st, 1861, who may within two years elect not to reside northeast of the Arkansas river and southeast of Grand river, shall have the right to settle in and occupy the Canadian district southwest of the Arkansas river, and also all that tract of country lying northwest of Grand river, and bounded on the southeast by Grand river and west by the Creek reservation to the northeast corner thereof; from thence west on the north line of the Creek reservation to the ninety-sixth degree of west longitude; and thence north on said line of longitude so far that a line due east to Grand river will include a quantity of land equal to 160 acres for each person who may so elect to reside in the territory above described in this article: *Provided*, That that part of said district north of the Arkansas river shall not be set apart until it shall be found that the Canadian district is not sufficiently large to allow one hundred and sixty acres to each person desiring to obtain settlement under the provisions of this article.

ARTICLE 5.

The inhabitants electing to reside in the district described in the preceding article shall have the right to elect all their local officers and judges, and the number of delegates to which by their numbers they may be entitled in any general council to be established in the Indian territory under the provisions of this treaty, as stated in article 12; and to control all their local affairs, and to establish all necessary police regulations and rules for the administration of justice in said district, not inconsistent with the constitution of the Cherokee nation or the laws of the United States: *Provided*, The Cherokees residing in said district shall enjoy all the rights and privileges of other Cherokees who may elect to settle in said district as hereinbefore provided, and shall hold the same rights and privileges and be subject to the same liabilities as those who elect to settle in said district under the provisions of this treaty: *Provided also*, That if any such police regulations or rules be adopted which, in the opinion of the President, bear oppressively on any citizen of the nation, he may suspend the same. And all rules or regulations in said district, or in any other district of the nation, discriminating against the citizens of other districts, are prohibited, and shall be void.

ARTICLE 6.

The inhabitants of the said district hereinbefore described shall be entitled to representation according to numbers in the national council, and all laws of the Cherokee nation shall be uniform throughout said nation. And should any such law, either in its provisions or in the manner of its enforcement, in the opinion of the President of the United States, operate unjustly or injuriously in said district, he is hereby authorized and empowered to correct such evil, and to adopt the means necessary to secure the impartial administration of justice, as well as a fair and equitable application and expenditure of the national funds as between the people of this and of every other district in said nation.

ARTICLE 7.

The United States court to be created in the Indian territory; and until such court is created therein, the United States district court, the nearest to the Cherokee nation, shall have exclusive original jurisdiction of all causes, civil and criminal, wherein an inhabitant of the district hereinbefore described shall be a party, and where an inhabitant outside of said district, in the Cherokee nation, shall be the other party, as plaintiff or defendant in a civil cause, or shall be defendant or prosecutor in a criminal case, and all process issued in said district by any officer of the Cherokee nation, to be executed on an inhabitant residing outside of said district, and all process issued by any officer of the Cherokee nation outside of said district, to be executed on an inhabitant residing in said district, shall be to all intents and purposes null and void, unless endorsed by the district judge for the district where such process is to be served, and said person, so arrested, shall be held in custody by the officer so arresting him, until he shall be delivered over to the United States marshal, or consent to be tried by the Cherokee court: *Provided*, That any or all the provisions of this treaty, which make any distinction in rights and remedies between the citizens of any district and the citizens of the rest of the nation, shall be abrogated whenever the President shall have ascertained, by an election duly ordered by him, that a majority of the voters of such district desire them to be abrogated, and he shall have declared such abrogation: *And provided further*, That no law or regulation, to be hereafter enacted within said Cherokee nation or any district thereof, prescribing a penalty for its violation, shall take effect or be enforced until after 90 days from the date of its promulgation, either by publication in one or more newspapers of general circulation in said Cherokee nation, or by posting up copies thereof in the Cherokee and English languages in each district where the same is to take effect, at the usual place of holding district courts.

ARTICLE 8.

No license to trade in goods, wares, or merchandise *merchandise* shall be granted by the United States to trade in the Cherokee nation, unless approved by the Cherokee national council, except in the Canadian district, and such other district north of Arkansas river and west of Grand river occupied by the so-called Southern Cherokees, as provided in article 4 of this treaty.

ARTICLE 9.

The Cherokee nation having, voluntarily, in February, 1863, by an act of their national council, forever abolished slavery, hereby covenant and agree that never hereafter shall either slavery or involuntary servitude exist in their nation other-

erwise than in the punishment of crime, whereof the party shall have been duly convicted, in accordance with laws applicable to all the members of said tribe alike. They further agree that all freedmen who have been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees: *Provided*, That owners of slaves so emancipated in the Cherokee nation shall never receive any compensation or pay for the slaves so emancipated.

ARTICLE 10.

Every Cherokee and freed person resident in the Cherokee nation shall have the right to sell any products of his farm, including his or her live stock, or any merchandise or manufactured products, and to ship and drive the same to market without restraint, paying any tax thereon which is now or may be levied by the United States on the quantity sold outside of the Indian territory.

ARTICLE 11.

The Cherokee nation hereby grant a right of way not exceeding two hundred feet wide, except at stations, switches, water stations, or crossing of rivers, where more may be indispensable to the full enjoyment of the franchise herein granted, and then only two hundred additional feet shall be taken, and only for such length as may be absolutely necessary, through all their lands, to any company or corporation which shall be duly authorized by Congress to construct a railroad from any point north to any point south, and from any point east to any point west of, and which may pass through, the Cherokee nation. Said company or corporation, and their employés and laborers, while constructing and repairing the same, and in operating said road or roads, including all necessary agents on the line, at stations, switches, water tanks, and all others necessary to the successful operation of a railroad, shall be protected in the discharge of their duties, and at all times subject to the Indian intercourse laws, now or which may hereafter be enacted and be in force in the Cherokee nation.

ARTICLE 12.

The Cherokees agree that a general council, consisting of delegates elected by each nation or tribe lawfully residing within the Indian territory, may be annually convened in said territory, which council shall be organized in such manner and possess such powers as hereinafter prescribed.

First. After the ratification of this treaty, and as soon as may be deemed practicable by the Secretary of the Interior, and prior to the first session of said council, a census or enumeration of each tribe lawfully resident in said territory shall be taken under the direction of the Commissioner of Indian Affairs, who for that purpose is hereby authorized to designate and appoint competent persons, whose compensation shall be fixed by the Secretary of the Interior, and paid by the United States.

Second. The first general council shall consist of one member from each tribe, and an additional member for each one thousand Indians, or each fraction of a thousand greater than five hundred, being members of any tribe lawfully resident in said territory, and shall be selected by said tribes respectively, who may assent to the establishment of said general council; and if none should be thus formally

selected by any nation or tribe so assenting, the said nation or tribe shall be represented in said general council by the chief or chiefs and headmen of said tribes, to be taken in the order of their rank as recognized in tribal usage, in the same number and proportion as above indicated. After the said census shall have been taken and completed, the superintendent of Indian affairs shall publish and declare to each tribe assenting to the establishment of such council the number of members of such council to which they shall be entitled under the provisions of this article, and the persons entitled to represent said tribes shall meet at such time and place as he shall approve; but thereafter the time and place of the sessions of said council shall be determined by its action: *Provided*, That no session in any one year shall exceed the term of thirty days: *And provided*, That special sessions of said council may be called by the Secretary of the Interior whenever in his judgment the interest of said tribes shall require such special session.

Third. Said general council shall have power to legislate upon matters pertaining to the intercourse and relations of the Indian tribes and nations and colonies of freedmen resident in said territory; the arrest and extradition of criminals and offenders escaping from one tribe to another, or into any community of freedmen; the administration of justice between members of different tribes of said territory and persons other than Indians and members of said tribes or nations; and the common defence and safety of the nations of said territory.

All laws enacted by said council shall take effect at such time as may therein be provided, unless suspended by direction of the President of the United States. No law shall be enacted inconsistent with the Constitution of the United States, or laws of Congress, or existing treaty stipulations with the United States. Nor shall said council legislate upon matters other than those above indicated: *Provided, however*, That the legislative power of such general council may be enlarged by the consent of the national council of each nation or tribe assenting to its establishment, with the approval of the President of the United States.

Fourth. Said council shall be presided over by such person as may be designated by the Secretary of the Interior.

Fifth. The council shall elect a secretary, whose duty it shall be to keep an accurate record of all the proceedings of said council, and who shall transmit a true copy of all such proceedings, duly certified by the presiding officer of such council, to the Secretary of the Interior, and to each tribe or nation represented in said council, immediately after the sessions of said council shall terminate. He shall be paid out of the treasury of the United States an annual salary of five hundred dollars.

Sixth. The members of said council shall be paid by the United States the sum of four dollars per diem during the term actually in attendance on the sessions of said council, and at the rate of four dollars for every twenty miles necessarily travelled by them in going from and returning to their homes, respectively, from said council, to be certified by the secretary and president of the said council.

ARTICLE 13.

The Cherokees also agree that a court or courts may be established by the United States in said territory, with such jurisdiction and organized in such manner as may be prescribed by law: *Provided*, That the judicial tribunals of the nation shall be allowed to retain exclusive jurisdiction in all civil and criminal cases arising within their country in which members of the nation, by nativity or adoption, shall be the only parties, or where the cause of action shall arise in the Cherokee nation, except as otherwise provided in this treaty.

ARTICLE 14.

The right to the use and occupancy of a quantity of land not exceeding one hundred and sixty acres, to be selected according to legal subdivisions in one body, and to include their improvements, and not including the improvements of any member of the Cherokee nation, is hereby granted to every society or denomination which has erected, or which with the consent of the national council may hereafter erect, buildings within the Cherokee country for missionary or educational purposes. But no land thus granted, nor buildings which have been or may be erected thereon, shall ever be sold or [o]therwise disposed of except with the consent and approval of the Cherokee national council and of the Secretary of the Interior. And whenever any such lands or buildings shall be sold or disposed of, the proceeds thereof shall be applied by said society or societies for like purposes within said nation, subject to the approval of the Secretary of the Interior.

ARTICLE 15.

The United States may settle any civilized Indians, friendly with the Cherokees and adjacent tribes, within the Cherokee country, on unoccupied lands east of 96°, on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the President of the United States, which shall be consistent with the following provisions, viz: Should any such tribe or band of Indians settling in said country abandon their tribal organization, there being first paid into the Cherokee national fund a sum of money which shall sustain the same proportion to the then existing national fund that the number of Indians sustain to the whole number of Cherokees then residing in the Cherokee country, they shall be incorporated into and ever after remain a part of the Cherokee nation, on equal terms in every respect with native citizens. And should any such tribe, thus settling in said country, decide to preserve their tribal organizations, and to maintain their tribal laws, customs, and usages, not inconsistent with the constitution and laws of the Cherokee nation, they shall have a district of country set off for their use by metes and bounds equal to 160 acres, if they should so decide, for each man, woman, and child of said tribe, and shall pay for the same into the national fund such price as may be agreed on by them and the Cherokee nation, subject to the approval of the President of the United States, and in cases of disagreement the price to be fixed by the President.

And the said tribe thus settled shall also pay into the national fund a sum of money, to be agreed on by the respective parties, not greater in proportion to the whole existing national fund and the probable proceeds of the lands herein ceded or authorized to be ceded or sold than their numbers bear to the whole number of Cherokees then residing in said country, and thence afterwards they shall enjoy all the rights of native Cherokees. But no Indians who have no tribal organizations, or who shall determine to abandon their tribal organizations, shall be permitted to settle east of the 96° of longitude without the consent of the Cherokee national council, or of a delegation duly appointed by it, being first obtained. And no Indians who have and determine to preserve their tribal organizations shall be permitted to settle, as herein provided, east of the 96° of longitude without such consent being first obtained, unless the President of the United States, after a full hearing of the objections offered by said council or delegation to such settlement, shall determine that the objections are insufficient, in which case he may authorize the settlement of such tribe east of the 96° of longitude.

ARTICLE 16.

The United States may settle friendly Indians in any part of the Cherokee country west of 96°, to be taken in a compact form in quantity not exceeding 160 acres for each member of each of said tribes thus to be settled; the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee simple to each of said tribes to be held in common or by their members in severalty as the United States may decide.

Said lands thus disposed of to be paid for to the Cherokee nation at such price as may be agreed on between the said parties in interest, subject to the approval of the President; and if they should not agree, then the price to be fixed by the President.

The Cherokee nation to retain the right of possession of and jurisdiction over all of said country west of 96° of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.

ARTICLE 17.

The Cherokee nation hereby cedes, in trust to the United States, the tract of land in the State of Kansas which was sold to the Cherokees by the United States, under the provisions of the 2nd article of the treaty of 1835; and also that strip of the land ceded to the nation by the 4th article of said treaty which is included in the State of Kansas, and the Cherokees consent that said lands may be included in the limits and jurisdiction of the said State.

The lands herein ceded shall be surveyed as the public lands of the United States are surveyed, under the direction of the Commissioner of the General Land Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council and one by the Secretary of the Interior, and, in case of disagreement, by a third person, to be mutually selected by the aforesaid appraisers. The appraisement to be not less than an average of one dollar and a quarter per acre, exclusive of improvements.

And the Secretary of the Interior shall from time to time, as such surveys and appraisements are approved by him, after due advertisement for sealed bids, sell such lands to the highest bidders for cash in parcels not exceeding one hundred and sixty acres, and at not less than the appraised value: *Provided*, That whenever there are improvements of the value of \$50 made on the lands not being mineral, and owned and personally occupied by any person for agricultural purposes at the date of the signing hereof, such person so owning, and in person residing on such improvements, shall, after due proof, made under such regulations as the Secretary of the Interior may prescribe, be entitled to buy, at the appraised value, the smallest quantity of land in legal subdivisions which will include his improvements, not exceeding in the aggregate one hundred and sixty acres; the expenses of survey and appraisement to be paid by the Secretary out of the proceeds of sale of said land: *Provided*, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said neutral lands in a body to any responsible party, for cash, for a sum not less than eight hundred thousand dollars.

ARTICLE 18.

That any lands owned by the Cherokees in the State of Arkansas and in States east of the Mississippi may be sold by the Cherokee nation in such manner as their national council may prescribe, all such sales being first approved by the Secretary of the Interior.

ARTICLE 19.

All Cherokees being heads of families residing at the date of the ratification of this treaty on any of the lands herein ceded, or authorized to be sold, and desiring to remove to the reserved country, shall be paid by the purchasers of said lands the value of such improvements, to be ascertained and appraised by the commissioners who appraise the lands, subject to the approval of the Secretary of the Interior; and if he shall elect to remain on the land now occupied by him, shall be entitled to receive a patent from the United States in fee simple for 320 acres of land to include his improvements, and thereupon he and his family shall cease to be members of the nation.

ARTICLE 20.

Whenever the Cherokee national council shall request it, the Secretary of the Interior shall cause the country reserved for the Cherokees to be surveyed and allotted among them, at the expense of the United States.

ARTICLE 21.

It being difficult to learn the precise boundary line between the Cherokee country and the States of Arkansas, Missouri, and Kansas, it is agreed that the United States shall, at its own expense, cause the same to be run as far west as the Arkansas, and marked by permanent and conspicuous monuments, by two commissioners, one of whom shall be designated by the Cherokee national council.

ARTICLE 22.

The Cherokee national council, or any duly appointed delegation thereof, shall have the privilege to appoint an agent to examine the accounts of the nation with the government of the United States at such time as they may see proper, and to continue or discharge such agent, and to appoint another, as may be thought best by such council or delegation; and such agent shall have free access to all accounts and books in the executive departments relating to the business of said Cherokee nation, and an opportunity to examine the same in the presence of the officer having such books and papers in charge.

ARTICLE 23.

All funds now due the nation, or that may hereafter accrue from the sale of their lands by the United States as hereinbefore provided for, shall be invested in United States registered stocks at their current value, and the interest on all said funds shall be paid semi-annually on the order of the Cherokee nation, and shall be applied to the following purposes, to wit: Thirty-five per cent. shall be applied for the support of the common schools of the nation and educational purposes; fifteen per cent. for the orphan fund, and fifty per cent. for general purposes, including reasonable salaries of district officers; and the Secretary of the Interior, with the approval of the President of the United States, may pay out of the funds due the nation, on the order of the national council or a delegation duly authorized by it, such amount as he may deem necessary to meet outstanding obligations of the Cherokee nation, caused by the suspension of the payment of their annuities, not to exceed the sum of one hundred and fifty thousand dollars.

ARTICLE 24.

As a slight testimony for the useful and arduous services of the Rev. Evan Jones, for forty years a missionary in the Cherokee nation, now a cripple, old and poor, it is agreed that the sum of three thousand dollars be paid to him, under the direction of the Secretary of the Interior, out of any Cherokee fund in or to come into his hands not otherwise appropriated.

ARTICLE 25.

A large number of the Cherokees who served in the army of the United States having died, leaving no heirs entitled to receive bounties and arrears of pay on account of such service, it is agreed that all bounties and arrears for service in the regiments of Indian United States volunteers which shall remain unclaimed by any person legally entitled to receive the same for two years from the ratification of this treaty, shall be paid as the national council may direct, to be applied to the foundation and support of an asylum for the education of orphan children, which asylum shall be under the control of the national council, or of such benevolent society as said council may designate, subject to the approval of the Secretary of the Interior.

ARTICLE 26.

The United States guarantee to the people of the Cherokee nation the quiet and peaceable possession of their country and protection against domestic feuds and insurrections and against hostilities of other tribes. They shall also be protected against inter[r]uptions or intrusion from all unauthorized citizens of the United States who may attempt to settle on their lands or reside in their territory. In case of hostilities among the Indian tribes, the United States agree that the party or parties commencing the same shall, so far as practicable, make reparation for the damages done.

ARTICLE 27.

The United States shall have the right to establish one or more military posts or stations in the Cherokee nation, as may be deemed necessary for the proper protection of the citizens of the United States lawfully residing therein and the Cherokees and other citizens of the Indian country. But no sutler or other person connected therewith, either in or out of the military organization, shall be permitted to introduce any spirit[u]ous, vinous, or malt liquors into the Cherokee nation, except the medical department proper, and by them only for strictly medical purposes. And all persons not in the military service of the United States, not citizens of the Cherokee nation, are to be prohibited from coming into the Cherokee nation, or remaining in the same, except as herein otherwise provided; and it is the duty of the United States Indian agent for the Cherokees to have such persons, not lawfully residing or sojourning therein, removed from the nation, as they now are, or hereafter may be, required by the Indian intercourse laws of the United States.

ARTICLE 28.

The United States hereby agree to pay for provisions and clothing furnished the army under Appothlehala in the winter of 1861 and 1862, not to exceed the sum of ten thousand dollars, the accounts to be ascertained and settled by the Secretary of the Interior.

ARTICLE 29.

The sum of ten thousand [dollars,] or so much thereof as may be necessary to pay the expenses of the delegates and representatives of the Cherokees invited by the government to visit Washington for the purposes of making this treaty, shall be paid by the United States on the ratification of this treaty.

ARTICLE 30.

The United States agree to pay to the proper claimants all losses of property by missionaries or missionary societies, resulting from their being ordered or driven from the country by United States agents, and from their property being taken and occupied or destroyed by *by* United States troops, not exceeding in the aggregate twenty thousand dollars, to be ascertained by the Secretary of the Interior.

ARTICLE 31.

All provisions of treaties, heretofore ratified and in force, and not inconsistent with the provisions of this treaty, are hereby reaffirmed and declared to be in full force; and nothing herein shall be construed as an acknowledgment by the United States, or as a relinquishment by the Cherokee nation of any claims or demands under the guaranties of former treaties, except as herein expressly provided.

In testimony whereof, the said commissioners on the part of the United States, and the said delegation on the part of the Cherokee nation, have hereunto set their hands and seals, at the city of Washington, this *ninth* [nineteenth] day of July, A. D. one thousand eight hundred and sixty-six.

D. N. COOLEY,
Com'r Ind. Affairs.
ELIJAH SELLS,
Sup't Ind. Affs.
SMITH CHRISTIE,
WHITE CATCHER,
JAMES McDANIEL,
S. H. BENGE,
DANL. H. ROSS,
J. B. JONES,

*Delegates of the Cherokee Nation, appointed by
Resolution of the National Council.*

In presence of—
W. H. WATSON.
J. W. WRIGHT.

Signatures witnessed by the following named persons, the following interlineations being made before signing: On page 1st the word "the" interlined, on page 11 the word "the" struck out, and to said page 11 a sheet attached requiring publication of laws; and on page 34th the word "ceded" struck out and the words "neutral lands" inserted. Page 47½ added relating to expenses of treaty.

THOMAS EWING, JR.
WM. A. PHILLIPS.
J. W. WRIGHT.

And whereas, the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the twenty-seventh day of July, one thousand eight hundred and sixty-six, advise and consent to the ratification of the same, with amendments, by a resolution in the words and figures following, to wit :

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES,
July 27, 1866.

Resolved, (two-thirds of the Senators present concurring,) That the Senate advise and consent to the ratification of the articles of agreement and convention made at the city of Washington, on the nineteenth day of July, in the year of our Lord one thousand eight hundred and sixty-six, between the United States and the Cherokee nation of Indians, with the following

AMENDMENTS :

1st. Insert at the end of article 2 the following :

But the Cherokee nation stipulate and agree to deliver up to the United States, or their duly authorized agent, any or all public property, particularly ordnance, ordnance stores, arms of all kinds, and quartermasters' stores, in their possession or control, which belonged to the United States or the so-called Confederate States, without any reservation.

2nd. Strike out the last proviso in article 17, and insert in lieu thereof the following :

Provided, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said lands not occupied by actual settlers at the date of the ratification of this treaty, not exceeding 160 acres to each person entitled to pre-emption under the pre-emption laws of the United States, in a body, to any responsible party, for cash, for a sum not less than one dollar per acre.

3d. Insert at the end of article 29 the following :

And the Secretary of the Interior shall also be authorized to pay the reasonable costs and expenses of the delegates of the southern Cherokees.

The moneys to be paid under this article shall be paid out of the proceeds of the sales of the national lands in Kansas.

Attest :

J. W. FORNEY,
Secretary.

And whereas the foregoing amendments having been fully explained and interpreted to the aforementioned delegates of the Cherokee nation, they did, on the thirty-first day of July, one thousand eight hundred and sixty-six, give, on behalf of said nation, their free and voluntary assent to said amendments, in the words and figures following, to wit :

Whereas the Senate of the United States did, on the 27th day of July, 1866, advise and consent to the ratification of the articles of agreement and convention, made at the city of Washington, on the nineteenth day of July, in the year of

our Lord one thousand eight hundred and sixty-six, between the United States and the Cherokee nation of Indians, with the following

AMENDMENTS, to wit:

1st. Insert at the end of article 2 the following:

But the Cherokee nation stipulate and agree to deliver up to the United States, or their duly authorized agent, any or all public property, particularly ordnance, ordnance stores, arms of all kinds, and quartermasters' stores, in their possession or control, which belonged to the United States or the so-called Confederate States, without any reservation.

2nd. Strike out the last proviso in article 17, and insert in lieu thereof the following :

Provided, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said lands not occupied by actual settlers at the date of the ratification of this treaty, not exceeding 160 acres to each person entitled to pre-emption under the pre-emption laws of the United States, in a body, to any responsible party, for cash, for a sum not less than one dollar per acre.

3d. Insert at the end of article 29 the following:

And the Secretary of the Interior shall also be authorized to pay the reasonable costs and expenses of the delegates of the Southern Cherokees.

The moneys to be paid under this article shall be paid out of the proceeds of the sales of the national lands in Kansas.

Now, therefore, we, the delegates on the part of the said Cherokee nation, do hereby assent and agree to the said amendments above written, the same having been explained to us and being fully understood by us.

Witness our hands and seals, this 31st day of July, A. D. 1866, at Washington, D. C.

SMITH CHRISTIE.	[SEAL.]
WHITE CATCHER.	[SEAL.]
JAMES McDANIEL.	[SEAL.]
S. H. BENGE.	[SEAL.]
DANL. H. ROSS.	[SEAL.]
J. B. JONES.	[SEAL.]

In presence of—

D. N. COOLEY,
Com'r Ind. Affairs.
J. HARLAN,
U. S. Ind. Agent.
CHARLES E. MIX.
J. W. WRIGHT.
W. R. IRWIN.

Now, therefore, be it known that I, ANDREW JOHNSON, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in its resolution of the twenty-seventh of July, one thousand eight

hundred and sixty-six, accept, ratify, and confirm the said treaty with the amendments as aforesaid.

In testimony whereof I have signed my name hereto, and have caused the seal of the United States to be affixed.

Done at the city of Washington, this eleventh day of August, in the year of [SEAL.] our Lord one thousand eight hundred and sixty-six, and of the Independence of the United States of America the ninety-first.

ANDREW JOHNSON.

By the President:

HENRY STANBERRY,

Acting Secretary of State.