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RATIFIED TREATY NO. 318

DOCUMENTS RELATING TO THE NEGOTIATION OF THE
TREATY OF NOVEMBER 15, 1861, WITH THE POTAWATOMI INDIANS

Pottowatomie R. 1626
W. W. Ross
Pottowatomie Agency
Nov. 15th 1861.

Encls
Encloses treaty with
the Pottowatomies of
November 15th 1861.

See Report Secy of Interior
Dec 17th 1861.

Impr



Comr

TRENTY FIVE

To await arrival
of Mr Ewing

Pottowattomie Agency.
Nov. 15th 1861

Sir-

Please find enclosed a treaty with the Pottowattomie Indians, based upon the propositions made by yourself to them when here last September, after a consultation of five days, the treaty was concluded and signed at two o'clock on the 15th inst with the greatest unanimity.

Hoping that it will prove satisfactory to the Department

I remain very respectfully,

Your most obedient servant
W. W. Ross Ind. Agent.

Wm. P. Dole.

Commissioner of Ind. Affairs
Washington City
D. C.

TREATY

BETWEEN

THE UNITED STATES OF AMERICA

AND THE

POTTAWATOMIE NATION OF INDIANS.

CONCLUDED NOVEMBER 15, 1861.

RATIFICATION ADVISED, WITH AMENDMENTS, APRIL 15, 1862.

AMENDMENTS ACCEPTED APRIL 17, 1862.

PROCLAIMED APRIL 19, 1862.

TREATY FILE

1862



ABRAHAM LINCOLN,

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 Pottawatomie Agency, on the Kansas river, in the State of Kansas, on the fifteenth day of November, one thousand eight hundred and sixty-one, between William W. Ross, Commissioner on the part of the United States, and the Chiefs, Braves, and Headmen of the Pottawatomie nation of Indians, on the part of said nation ;—

And whereas the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, by its resolution of the fifteenth day of April, one thousand eight hundred and sixty-two, advise and consent to the ratification of said treaty with certain amendments :

And whereas said nation of Indians did, on the seventeenth day of April, one thousand eight hundred and sixty-two, by a committee composed of Shawque, (Chief,) Topenubbee, (Chief,) We-weh-seh, (Chief,) Me-yenco, (Chief,) and Shomen, (Brave,) appointed to transact all their national business between them and the agent of the United States and the Indian Department, and by Jos. N. Bourassa, George L. Young, B. H. Bertrand, M. B. Beaubien, L. H. Ogee, John Tipton, and Lewis View, in the presence of Clark W. Thompson, (Superintendent of Indian Affairs for the Northern Superintendency,) Lewis S. Hayden, John B. Gordon, and Elisha Goddard, give their free and voluntary assent to the amendments made by the Senate in the resolution aforesaid ; which treaty, as amended by the Senate and assented to by said committee and others, is word for word as follows :

Articles of a treaty made and concluded at the agency on the Kansas river, on the fifteenth day of November, in the year of our Lord one thousand eight hundred and sixty-one, by and between Wm. W. Ross, commissioner on the part of the United States, and the undersigned chiefs, braves, and headmen of the Pottawatomie nation, on behalf of said nation.

ARTICLE 1st. The Pottawatomie tribe of Indians believing that it will contribute to the civilization of their people to dispose of a portion of their present reservation in Kansas, consisting of five hundred and seventy-six thousand acres, which was acquired by them for the sum of \$87,000, by the 4th article of the treaty between the United States and the said Pottawatomies, proclaimed by the President of the United States on the 23d day of July, 1846, and to allot lands in severalty to those of said tribe who have adopted the customs of the whites and desire to have separate tracts assigned to them, and to assign a portion of said reserve to those of the tribe who prefer to hold their lands in common: it is therefore agreed by the parties hereto that the Commissioner of Indian Affairs shall cause the whole of said reservation to be surveyed in the same manner as the public lands are surveyed, the expense whereof shall be paid out of the sales of lands hereinafter provided for, and the quantity of land hereinafter provided to be set apart to those of the tribe who desire to take their lands in severalty, and the quantity hereinafter provided to be set apart for the rest of the tribe in common; and the remainder of the land, after the special reservation hereinafter provided for shall have been made, to be sold for the benefit of said tribe.

ARTICLE 2d. It shall be the duty of the agent of the United States for said tribe to take an accurate census of all the members of the tribe, and to classify them in separate lists, showing the names, ages, and numbers of those desiring lands in severalty, and of those desiring lands in common, designating chiefs and headmen, respectively; each adult choosing for himself or herself, and each head of a family for the minor children of such family, and the agent for orphans and persons of an unsound mind. And

thereupon there shall be assigned, under the direction of the Commissioner of Indian Affairs, to each chief at the signing of the treaty, one section; to each headman, one half section; to each other head of a family, one quarter section; and to each other person eighty acres of land; to include, in every case, as far as practicable, to each family, their improvements and a reasonable portion of timber, to be selected according to the legal subdivision of survey. When such assignments shall have been completed, certificates shall be issued by the Commissioner of Indian Affairs for the tracts assigned in severalty, specifying the names of the individuals to whom they have been assigned, respectively, and that said tracts are set apart for the perpetual and exclusive use and benefit of such assignees and their heirs. Until otherwise provided by law, such tracts shall be exempt from levy, taxation, or sale, and shall be alienable in fee or leased or otherwise disposed of only to the United States, or to persons then being members of the Pottawatomie tribe and of Indian blood, with the permission of the President, and under such regulations as the Secretary of the Interior shall provide, except as may be hereinafter provided. And on receipt of such certificates, the person to whom they are issued shall be deemed to have relinquished all right to any portion of the lands assigned to others in severalty, or to a portion of the tribe in common, and to the proceeds of sale of the same whensoever made.

ARTICLE 3d. At any time hereafter when the President of the United States shall have become satisfied that any adults, being males and heads of families, who may be allottees under the provisions of the foregoing article, are sufficiently intelligent and prudent to control their affairs and interests, he may, at the requests of such persons, cause the lands severally held by them to be con-

veyed to them by patent in fee simple, with power of alienation; and may at the same time, cause to be paid to them, in cash or in the bonds of the United States, their proportion of the cash value of the credits of the tribe, principal and interest, then held in trust by the United States, and also, as the same may be received, their proportion of the proceeds of the sale of lands under the provisions of this treaty; and on such patents being issued and such payments ordered to be made by the President, such competent persons shall cease to be members of said tribe, and shall become citizens of the United States; and thereafter the lands so patented to them shall be subject to levy, taxation, and sale, in like manner with the property of other citizens: *Provided*, That, before making any such application to the President, they shall appear in open court in the district court of the United States for the district of Kansas, and make the same proof and take the same oath of allegiance as is provided by law for the naturalization of aliens, and shall also make proof to the satisfaction of said court that they are sufficiently intelligent and prudent to control their affairs and interests, that they have adopted the habits of civilized life, and have been able to support, for at least five years, themselves and families.

ARTICLE 4th. To those members of said tribe who desire to hold their lands in common there shall be set apart an undivided quantity sufficient to allow one section to each chief, one half section to each headman, and one hundred and sixty acres to each other head of a family, and eighty acres of land to each other person, and said land shall be held by that portion of the tribe for whom it is set apart by the same tenure as the whole reserve has been held by all of said tribe under the treaty of 1846. And upon such land being assigned in common, the persons to whom it is assigned shall be held to have relinquished all title to the lands assigned in severalty and in the proceeds of sales thereof whenever made.

ARTICLE 5th. The Pottawatomies believing that the construction of the Leavenworth, Pawnee, and Western railroad from Leavenworth City to the western boundary of the former reserve of the Delawares is now rendered reasonably certain, and being desirous to have said railroad extended through their reserve, in the direction of Fort Riley, so that the value of the lands retained by them may be enhanced, and the means afforded them of getting the surplus product of their farms to market, it is provided that the Leavenworth, Pawnee, and Western Railroad Company shall have the privilege of buying the remainder of their lands within six months after the tracts herein otherwise disposed of shall have been selected and set apart, provided they purchase the whole of such surplus lands at the rate of one dollar and twenty-five cents per acre.

And if said company make such purchase it shall be subject to the considerations following, to wit: They shall construct and fully equip a good and efficient railroad from Leavenworth City to a point half way between the western boundary of the said former Delaware reserve and the western boundary of the said Pottawatomie reserve, (being the first section of said road,) within six years from the date of such purchase, and shall construct and fully equip such road from said last-named point to the western boundary of said Pottawatomie reserve, (being the second section of said road,) within three years from the date fixed for the completion of said first section; and no patent or patents shall issue to said company or its assigns for any of said lands purchased until the first section of said railroad shall have been completed and equipped, and then for not more than half of said lands, and no patent or patents shall issue to said company or its assigns for any of the remaining portion of said lands until said second section of said railroad shall have been completed and equipped as aforesaid; and before any patents shall issue for any part of said

lands payment shall be made for the lands to be patented at the rate of one dollar and twenty-five cents per acre; and said company shall pay the whole amount of the purchase money for said lands in gold or silver coin, to the Secretary of the Interior of the United States, in trust for said Pottawatomie Indians, within nine years from the date of such purchase, and shall also in like manner pay to the Secretary of the Interior of the United States, in trust as aforesaid, each and every year, until the whole purchase money shall have been paid, interest from date of purchase, at six per cent. per annum, on all the purchase money remaining unpaid.

And if said company shall fail to complete either section of such railroad in a good and efficient manner, or shall fail to pay the whole of the purchase money for said land within the times above prescribed, or shall fail to pay all or any part of the interest upon said purchase money each year as aforesaid within thirty days from the date when such payment of interest shall fall due, then the contract or purchase shall be deemed and held absolutely null and void, and shall cease to be binding on either of the parties thereto, and said company and its assigns shall forfeit all payments of principal and interest made on such purchase, and all right and title, legal and equitable, of any kind whatsoever, in and to all and every part of said lands which shall not have been before the date of such forfeiture earned and patented pursuant to the provisions of this treaty.

And whenever any patent shall issue to said railroad company for any part of said lands, it shall contain the condition that the said company shall sell the land described in such patent, except so much as shall be necessary for the working of the road, within five years from the issuing of such patent.

And said company shall have the perpetual right of way over the lands of the Pottawatomies not sold to it for the construction and operation of said railroad, not exceeding one hundred feet in width,

and the right to enter on said lands and take and use such gravel, stone, earth, water, and other material, except timber, as may be necessary for the construction and operation of said road, making compensation for any damages to improvements done in obtaining such material, and for any damages arising from the location or running of said road to improvements made before the road is located. Such damages and compensation, in cases where said company and the persons whose improvements are injured or property taken cannot agree, to be ascertained and adjusted under the direction of the Commissioner of Indian Affairs. And in case said company shall not promptly pay the amount of such damages and compensation, the Secretary of the Interior may withhold patents for any part of the lands purchased by them until payment be made of the amount of such damages, with six per cent. interest thereon from the date when the same shall have been ascertained and demanded.

And in case said company shall not purchase said surplus lands, or, having purchased, shall forfeit the whole or any part thereof, the Secretary of the Interior shall thereupon cause the same to be appraised at not less than one dollar and twenty-five cents per acre, and shall sell the same, in quantities not exceeding one hundred and sixty acres, at auction to the highest bidder for cash, at not less than such appraised value.

ARTICLE 6th. There shall be selected by the Commissioner of Indian Affairs three hundred and twenty acres of land, including the church, school-houses, and fields of the St. Mary's Catholic Mission, but not including the buildings and enclosures occupied and used by persons other than those connected with the mission, without the consent of such persons, which shall be conveyed by the Secretary of the Interior to John F. Diel, John Summacker, and M. Gerillain, as trustees for the use of the society under whose patronage and control the church and school have been conducted within the last fourteen years; on condition, however, that, so long as the Pottawatomie

nation shall continue to occupy its present reservation, or any portion thereof, the said land shall be used and its products devoted exclusively to the maintenance of a school and church for their benefit. And there shall be reserved and conveyed in like manner, and upon like conditions, three hundred and twenty acres of land, including the Baptist mission buildings and enclosures, such conveyances to be made to such persons as may be designated by the Baptist Board of Missions.

ARTICLE 9th. [7th.] By article eight of the treaty of June 5th, 1846, between the United States and the Pottawatomie Indians, it is stipulated "that the annual interest of their improvement fund shall be paid out promptly and fully for their benefit at their new homes. If, however, at any time thereafter, the President of the United States shall be of opinion that it would be advantageous to the Pottawatomie nation, and they should request the same to be done, to pay them the interest of said money in lieu of the employment of persons, or the purchase of implements or machines, he is hereby authorized to pay the same, or any part thereof, in money, as their annuities are paid, at the time of the general payment of annuities."

It is hereby agreed that the interest arising from said improvement fund shall, in all cases hereafter, be paid in such machines and implements as will be useful to the people in their agricultural pursuits, as long as the nation shall desire it to be done, except that the shops, and mechanics, and physicians, now sustained by the funds of the nation, shall continue to be maintained, as at this time, for one year after this treaty shall have been ratified.

ARTICLE 10th. [8th.] If at any time hereafter any band or bands of the Pottawatomie nation shall desire to remove from the homes provided for them in this treaty, it shall be the duty of the Secretary of the Interior to have their proportionate part of the lands which may be assigned to the tribe appraised and sold, and invest such portion of the proceeds thereof as may be necessary in the purchase of a new home for such band or bands, leaving the remainder, should any remain after paying the expense of their removal, to be invested in six per cent. bonds of the United States, for the benefit of such band or bands. Such band or bands so removed shall continue to receive their proportion of the annuities of the tribe.

ARTICLE 11th. [9th.] No provision of this treaty shall be so construed as to invalidate any claim heretofore preferred by the Pottawatomies against the United States arising out of previous treaties.

ARTICLE 13th. [10th.] It is hereby agreed that the Commissioner of Indian Affairs shall set apart, for the benefit of said allottees, their equal pro rata share of the improvement fund of the tribe, which sum so set apart may be expended in whole or in part by the said Commissioner, and under his direction, for agricultural purposes, as he shall from time to time deem expedient and for the welfare of the said Indians.

ARTICLE 14th. [11th.] Should the Senate reject or amend any of the above articles, such rejection or amendment shall not affect the other provisions of this treaty, but the same shall go into effect when ratified by the Senate and approved by the President.

WM. W. ROSS,

Commissioner on behalf of United States.

Shaw-guee, (chief,)	his x mark.	A. B. Burnett.	
We-we-say, (chief,)	his x mark.	N-wa-kto, (brave,)	his x mark.
Jos. Lafromboise, (chief,)	his x mark.	Wah-bea-shkuk,	his x mark.
Mu-zhe, (chief,)	his x mark.	Sho-nim, (brave,)	his x mark.
Mkome-da, (chief,)	his x mark.	Pauce-je-yah, (chief,)	his x mark.
Myean-ko, (speaker,)	his x mark.	Ka-pshkuh-wid, (brave,)	his x mark.

Muis-no-ogih-mah,	his x mark.	Mko-nuih,	his x mark.
Ka-me-gas,	his x mark.	Oketch-gum-me,	his x mark.
Mo-zo-ba-net,	his x mark.	We-zos,	his x mark.
Wah-sah-to, (chief,)	his x mark.	A-sah-sahng-gah,	his x mark.
Shaw-we, (chief,)	his x mark.	Buck,	his x mark.
Bourie,	his x mark.	M. B. Beaubien.	
Nah-neam-nuk-shkuk,	his x mark.	L. H. Ogee.	
Pa-mah-me,	his x mark.	Lewis View,	his x mark.
Kah-dot,	his x mark.	B. H. Bertrand.	
Mink,	his x mark.	Shop-kuk, (speaker,)	his x mark.
Peter the Great,	his x mark.	George Fortier,	his x mark.
M-tom-ma, (brave,)	his x mark.	Odah-wahs,	his x mark.
Za-kto,	his x mark.	Little American,	his x mark.
Ain-na-by-ah,	his x mark.	Puk-ke,	his x mark.
Wah-sha,	his x mark.	Nah-ge-zhick,	his x mark.
White,	his x mark.	Oketch-gum-me,	his x mark.
Wah-nuk-ke,	his x mark.	Je-gueah-kyah,	his x mark.
Bah-be-jmah,	his x mark.	Bapt. LeClere,	his x mark.
Onak-sa, (second,)	his x mark.	Leon Bertrand,	his x mark.
Nom-mah-kshkuk,	his x mark.	Bzug-nah,	his x mark.
Thomas Evans,		Beau-mo,	his x mark.
Peter Moose,	his x mark.	Ke-yo-kum,	his x mark.
Jas. Levia,	his x mark.	Muk-kose,	his x mark.
Tquah-ket,	his x mark.	Wa-me-go,	his x mark.
Wahs-meg-guea,	his x mark.	Ka-beame-sa,	his x mark.
Pame-bo-go,	his x mark.	Onak-sa,	his x mark.
A-yea-nah-be,	his x mark.	Frank Bourbonnie,	his x mark.
Nah-duca,	his x mark.	Bescue Bourbonnie,	his x mark.
Nau-wah-ga,	his x mark.	Eli G. Nadeau.	
Pahs-kah-we,	his x mark.	Charles Viean.	
Wahb-na-mid,	his x mark.	To-to-qua,	her x mark.
Moz-wa-nwah,	his x mark.	Messah,	her x mark.
Thos. L. McKenney.		Otter-woman,	her x mark.
Za-gah-knuk,	his x mark.	Mary Jutions,	her x mark.
Che-gueah-mkuh-go (brave,)	his x mark.	Pnah-zuea,	her x mark.
Ain-waish-ke,	his x mark.	Louis Blackbird,	his x mark.
Msquah-mke,	his x mark.	Jos. N. Bourassa, <i>U. S. Inter'r.</i>	

Signed in presence of—

L. R. PALMER.

S. M. FERGUSON.

C. N. GRAY.

JOHN D. LUSBY.

Now, therefore, be it known that I, ABRAHAM LINCOLN, President of the United States of America, having seen the aforesaid amendments of the Senate, and the assent thereto of the said committee and others of the Pottawatomie nation of Indians, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the fifteenth day of April, one

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

In testimony whereof, I have caused the seal of the United States to be hereto affixed, having signed the same with my hand.

Done at the city of Washington, this nineteenth day of April, in the year of our Lord one thousand eight hundred and sixty-
[L. S.] two, and of the Independence of the United States the eighty-sixth.

ABRAHAM LINCOLN.

By the President :

WILLIAM H. SEWARD,
Secretary of State.