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Documents relating to the negotiation of an unratified treaty of March 2, 1867, with the Shawnee Indians. March 2, 1867

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DOCUMENTS RELATING TO THE
NEGOTIATION OF AN UNRATIFIED TREATY OF
MARCH 2, 1867, WITH THE SHAWNEE INDIANS

Department of the Interior.

Received April 30, 1869.

Dated April 22, 1869.

From Geo. C. Gorham
Vice of U. S. Senate

Subject.

Returns treaty with
the Shawnee Indians con-
cluded March 4, 1867,
as per request

File

(Returns Original
Action)

Respectfully ref. to the
Com. Indian Affairs
Geo. S. Mutsaers
Chief Clerk

May 21/69

Registered, Vol. 6, 5891
Filed, June 1/69

L135

Shamsee Treaty
of 1867.



In Executive Session
Senate of the United States,
April 22, 1869,

Ordered, That the Secretary be directed to return to the President of the United States in compliance with his request of this date, the Shawnee treaty concluded on the 4th of March, 1864,

Attest.

Geo. C. Gorham
Secretary.

by W. J. McDonald
Chief Clerk

K

Marsh

Treaty with the
Shanones

March 4. 1867

(K)

Articles of Agreement, made and concluded at Washington, D.C. this second day of March, one thousand eight hundred and sixty seven, between the United States, represented by Lewis V. Boggs, Commissioner of Indian Affairs, W. H. Watson, Special Commissioner, Thomas Murphy, Superintendent of Indian Affairs for Kansas, and H. L. Taylor and Henry Shanklin, United States Indian Agents; and the Shawnee tribe of Indians, represented by Graham Rogers and Charles Tucker, John White and Samuel Hill;

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Whereas it is desirable that the Shawnees, now resident in Kansas, who do not desire to become citizens of the United States, should be provided with a new reservation in the "Indian country" south of Kansas; and Whereas a certain portion of the Shawnees, who had rights to land reserved to them for a limited period by the treaty of November 2^d, 1854, have heretofore, for various reasons, been unable to enter into the enjoyment of those rights, but now desire to avail themselves of such rights in order to secure a permanent home, Therefore it is agreed —

Article 1 The rights of "absentee Shawnees" to lands set apart for them by the second article of the treaty of November 2^d, 1854, are conceded to exist as if they had availed themselves of such rights within the time limited, and

Marsh

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the land set apart for them shall be disposed of for their benefit as hereinafter mentioned; and if any such absentees have made selections of land, such selections shall be confirmed, and the allottees shall be placed among the list of severally Indians as contemplated in this treaty.

Article 2.

On or before June 1st, 1867, a register shall be taken by the Agent of the tribe for those who have been recognized as belonging to his agency, and for the Absentee Shawnees by the Agent of the Wichita Agency, which register shall show the names, ages, and sex, by families, of all the Shawnees, and whether they hold land in severalty or in common, and in either case whether they claim upon the lands reserved for the bands of Black Bob and Long Tail in the treaty of 1854, or upon the absentee lands. All selections made under said treaty shall be noted opposite the name of the party in whose behalf the selection is made, whether such selection has or has not been approved by the Secretary of the Interior, and the Agent making the register shall note whether the ~~the~~ adults registered are or are not capable of managing their own affairs. At the time of making such register, each Shawnee, of either sex, over 18 years of age, shall be required to decide whether he or she will remove to the new reservation in the Indian country, or will remain with the view of dissolving his or her connection with the tribe, and the choice of each shall be noted upon the register; and minor children shall be counted with the families to which they belong. After such registers shall have been made by the

Agents above mentioned, they shall make careful comparison of the same, in order to see that no person has been twice registered; and after all necessary corrections are made, they shall from both lists prepare one list, to be signed by them, and forwarded to the Commissioner of Indian Affairs, and such register shall be taken as the guide in arrangements to be made for the benefit of the people under this treaty.

Spitzer

Article 3

In order that a suitable home may be found for the Shawnees, a delegation representing the tribe may accompany the commission which shall be appointed to visit the Indian country, to select new reservations for Indians removing from Kansas, and upon the selection of such reservation, satisfactory to the people, and approved by the Secretary of the Interior, and to contain not less than 160 acres of land for each individual who shall have been registered as intending to remove thereto, such reservation shall be surveyed as to its exterior lines and marked with clearly defined limits at the cost of the United States.

Article 4.

The land set apart by the 2d article of the Shawnee treaty, of 1854 for absentee Shawnees, and not already allotted, shall be appraised at not less than two dollars and fifty cents per acre, by three appraisers, to be appointed by the Commissioner of Indian Affairs, one of whom shall be designated by the Shawnee Council, and another by the absentee Shawnees through their

Garrison

Agent; and after such appraisal said lands shall be sold under sealed bids invited by the Commissioner of Indian Affairs, at not less than the appraised value; Provided, that such persons as are residing upon the said absentee lands at the date of the signing of this treaty, and have made improvements thereon, shall have the right to purchase the tracts upon which they reside or have made improvements, in quantities not exceeding 160 acres, in contiguous legal subdivisions, by paying the appraised value of said land, at any time within 90 days after notice is published by the Commissioner of Indian Affairs of the approval of the appraisal, and filing of a copy of the same at the agency of the tribe; and after the said ninety days, the absentee lands remaining unsold, with the improvements thereon, shall be sold to the highest bidder for cash, at not less than the appraised value, upon sealed bids as above mentioned; Provided, that in all cases improvements shall be separately appraised, and the amount for which said improvements shall be sold shall be paid to the person who has made them.

Article 5.

Bunham

The fund derived from the sale of the absentee lands shall be held as the property of the absentee Shawnees, and shall be used and expended for their benefit in the manner hereinafter provided.

Article 6.

As to that portion of the people who occupy lands set apart in common, under the 2d article of the treaty of 1854, for persons residing in Black Bob's settlement, who

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shall elect to remove to the new reservation, such of them as have not already made selections of land, under that treaty, in severalty, may do so under the direction of the Agent, to the extent of 200 acres to each individual, which selections shall be reported to the Secretary of the Interior, and upon such report shall be confirmed; whereupon the lands so selected shall be appraised by three appraisers to be appointed by the Commissioner of Indian Affairs, one of whom shall be designated by the Shawnee Council, and another by the class of Indians interested in the sale, which last selection of an appraiser shall be notified to the Commissioner of Indian Affairs through the Agent; and after such appraisal, said lands shall be sold as provided in article four, for the benefit of the class of Indians interested, and the provisions of the next succeeding article, having reference to the method of selling lands respectively of competent and incompetent persons of the severalty Indians under the treaty of 1854, and to the use of the funds received by the United States from the proceeds thereof, shall apply to persons of the class referred to in this article who shall have made, or shall make selections of land.

The funds received by the United States from the sale of both the absentee and other lands shall be held (except such as are paid for improvements which shall belong to the party who has made them) in order to refund to the United States the cost of the new reservation, and such advances as may be made by the United States for the subsistence of the Indians

for the first year at their new homes, such cost and advances to be charged in just proportions to the Indians in whose behalf the purchase of the new reservation and advances are made; and the balance remaining shall be distributed annually, *per capita*, by the Agent, with the advice of the chief and council, in stock, provisions, agricultural implements, and other articles necessary to the improvement and comfort of the Indians entitled thereto; being the classes respectively on whose behalf the lands were sold; such distribution to be made of the amount on hand on the 1st of April in each year, until all of the lands are sold and the proceeds distributed.

Article 7. In relation to the Shawnees who have heretofore, under the treaty of 1854, received their lands in severalty, who shall, at the time of the register herein provided for, declare their desire to continue their tribal relations and go south, it shall be necessary, in order that they may do so, and own undivided rights in the new reservation contemplated in this treaty, that they shall contribute their share of the cost of the said reservation, and to enable them to do this and to remove to the new home, all restrictions shall be removed, after the date of the filing of the said register, from the sale of the lands of the persons herein referred to, for themselves and their families, as to that class who are reported as competent to manage their own affairs; and as to those reported as incompetent, their lands shall be sold by the Agent at not less than the

Burhan

appraised value for the land and improvements, and the amount received therefor be paid to the Commissioner of Indian Affairs; and there shall be retained therefrom the sum ascertained to be the proportion of this class of persons of the cost of the new reservation, and the balance shall be expended by the agent, under the advice of the Chiefs and Council in agricultural implements, provisions, stock, and other articles necessary for the improvement, comfort and benefit of the party for whom the land is sold, at his new home; and as to that class who are reported as competent to manage their own affairs, they shall pay, as directed by the Commissioner of Indian Affairs, for each person the proper share of the cost of the new reservation; provided that the said severalty Indians shall not be entitled to the expenditure in their behalf of any part of the amount to be expended for removal and subsistence upon the new reservation, they undertaking to remove and subsist themselves.

Article 8.

Committer

In all cases of sales of land provided for under this treaty, patents shall be issued to the purchaser when the conditions of sale shall have been fully complied with; and whereas it is alleged that in some cases parties have purchased land of Indians in good faith and for a valuable consideration, although no such sales were valid under former treaties, it is provided that the Commissioner of Indian Affairs shall take measures to ascertain the facts in such cases, and upon his reporting to the Secretary of the Interior that such sales

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have been made, and that the Indians selling have received a fair compensation, such sales shall be confirmed; and whereas many deeds, heretofore made by Indians have been suspended in the Interior Department, and not confirmed, it is agreed that careful inquiry shall be made, under direction of the Commissioner of Indian Affairs, as to whether in these cases reasonable compensation has been received by the Indian owner, and where such reasonable compensation shall have been, or shall be received, such deeds shall be approved.

Article 9

At any time within five years after the ratification of this treaty, those Shawnees who shall have elected to remain in Kansas and become citizens may do so, by appearing before the Judge for the United States District Court for Kansas and making proof that they are competent to manage their own affairs, and making the same declaration and taking the same oath as is required in case of the naturalization of aliens; upon which they shall receive certificates of the fact of making such declaration, oath, and proof, and upon filing the same in the office of the Commissioner of Indian Affairs they shall become citizens, with the families of each of them, and all restrictions be withdrawn from the sale of land heretofore allotted to them, and women who are heads of families, and single women of adult age, may become citizens upon the same conditions.

Shanklin

Article 10.

Within six months after the arrival of the people at their new home, an election shall be held, at which a head chief and four councilmen shall be chosen to manage their affairs. Such election shall be held after 30 days notice, all of the registered male members of the tribe over 18 years of age being entitled to vote, and shall be conducted, in their usual manner of conducting elections, under the direction of the agent of the tribe nearest to whose agency the Shawnees shall be located in the Indian Country. The result of such election shall be certified to the Commissioner of Indian Affairs, and thereafter the persons so elected shall be recognized as the authorities of the tribe until, at intervals of two years, their places shall be filled by other Shawnees, elected in the same manner, except that, after the first election, the Agent of the Shawnees shall conduct the election.

Article 11.

If at the end of five years any of the Shawnees, who have elected to remain and become citizens shall not have perfected their citizenship, they shall be required to remove to the new home of the tribe; and their remaining lands and improvements shall be sold, under the direction of the Commissioner of Indian Affairs, to the best advantage possible, and the proceeds of the sales be applied for their benefit at their new home.

Article 12.

It is agreed that rations on the journey, and assistance in transportation, shall be furnished by the United States,

Shawnee

without cost to the Indians, to an amount not exceeding five thousand dollars, under the direction of the Superintendent for Kansas, to such portion of the Shawnees as may need assistance in the removal to the new reservation; and the United States agree to advance a sum not to exceed twenty thousand dollars, for the purpose of furnishing subsistence for the first year to those who remove.

Article 13.

It shall be necessary for such of the Shawnees as now hold their lands in severalty, and elect to continue their tribal relation, to remove to the new home within three years after the ratification of this treaty; in default of which they shall lose the privilege of becoming members of the tribe under its new organization, unless by the consent of the majority of the male adults of the tribe.

Smith

Article 14.

Whereas it is alleged that certain sums of money, belonging to the Shawnee Orphan Fund, hitherto placed in the hands of a Government officer for distribution have not been paid to the Indians, it is agreed that if, upon examination, any such sum shall be found due and unpaid, a special appropriation shall be made of such sum, in order that they may not suffer loss or longer delay.

Article 15.

The lands heretofore reserved for the Mission School of the Indiana Yearly Meeting of Friends, shall be reserved

from sale, so long as the said Society of Friends shall continue in good faith to support the school thereon, under their existing contract, for the benefit of such Shawnees as may continue to reside at their old homes, and such other Shawnee children as may be sent to said school by others of that tribe. Whenever the land shall cease to be thus occupied and used, it shall be appraised and sold, at not less than its appraised value, and the proceeds of said sale shall be applied, under the direction of the Secretary of the Interior, with the consent of the Chief and Council, for the education of the Shawnee children; provided that the said Society of Friends shall, for 90 days after said appraisal, have the right to purchase the said land at the appraised value; and provided further that after said school shall have been closed, if there be any Shawnees remaining in Kansas, not citizens of the United States, they shall be entitled to their pro rata share of the income of the Shawnee school fund, to be expended for the education of their children.

Article 16.

The lands set apart by the treaty of 1854 for the American Baptist Mission School, which school has been abandoned by said association, and such portion of the five acres set apart for the Shawnee Methodist Church for church and burial purposes as shall not have been used as a burial place, shall be sold under direction of the Interior

Department, for the benefit of the tribe; and the funds arising from the sale of said lands shall be paid to the head chief of the tribe at such times, in such sums, and for such purposes, in the interest of the tribe, as the council shall through the agent request.

Ross

Article 17.

If upon examination it shall be found that allotments have heretofore been made to persons not entitled to the same, and that persons entitled thereto have been omitted, and the amount of land allotted by mistake exceeds the amount to which there are just claims, the lands so allotted by mistake shall be appraised and sold as provided in article four, and the avails thereof shall be used in the first place to pay to the persons so entitled, or their heirs, their proportion of the average value of an allotment for each, to be estimated by the Agent, and the balance, if any, shall be used for the benefit of the tribe, under direction of the Commissioner of Indian Affairs.

Article 18.

It is agreed that the claims of the Shumans for losses, damages, and depredation upon their property during the late war, and which claims have been examined and approved in the Interior Department, and reported upon favorably by the Secretary, by letter to the Committee of Ways and Means of the House of Representatives, dated January 20th, 1867, amounting to \$109,746.25 shall be allowed and paid, the same to be distributed by the Commissioner of Indian Affairs to the parties respectively entitled thereto.

Roh

Article 19. Whereas taxes have been levied, by authority of the State of Kansas, upon lands allotted to members of the Shawnee tribe, the right and justice of which taxation is not acknowledged by the Indians, and on which account they have suffered great vexation and expense, and which is now a matter in question in the Supreme Court of the United States; it is agreed that in case that Court shall decide such taxes unlawful, the Government of the United States will take measures to secure the refunding of said taxes to those who have paid them; and if such taxes are decided to be lawful, then the Government will redeem the said lands from all taxes down to the date of any deeds approved by the Secretary of the Interior.

Article 20. It is further agreed that the Shawnees shall be placed in all respects upon an equal footing, in proportion to their numbers, with all other residents of the tract of country, in which their new reservation shall be situated, if the said country shall ever be organized into a Territory, to which organization the Shawnees agree, if it shall be the desire of the United States; and the Shawnees further agree to unite with the other tribes or nations of such country, in such Council as may be authorized or provided for to decide upon regulations for their mutual benefit, having a just representation in such Council.

Article 21. It is agreed on the part of the United States that no claims against the Shawnees shall be

Hassman

adjudicated and ordered by Congress to be paid from their funds, until after a full opportunity shall have been given for the Chiefs and Council to be heard, by themselves or agents duly authorized.

Article 22. The Shawnees renew their pledges of devotion to the Government of the United States, and invoke its protection; and the United States agree to protect and defend them in all their just rights.

Article 23. Agency buildings shall be erected at the expense of the United States, for the Shawnees in the Indian Country, after their removal thereto, at a cost not to exceed eight thousand dollars.

Article 24. The expenses of negotiating this treaty, not to exceed five thousand dollars, shall be paid by the United States.

In Testimony Whereof, the aforementioned Commissioners on behalf of the United States; and the aforementioned Chiefs, Councilors and delegates on behalf of the Shawnees, have hereunto set

their hands and seals the day and year first above written,

In presence of
Charles Bugacket

U.S. Interpreter

H. W. Farnsworth

W. B. Mott

George B. Jones

Lewis R. Boye

Commissioner of Indian Affairs

W. H. Watson

Special Commissioner

Bro. Murphy

Supt of Indian Affairs

H. S. Taylor

U.S. Agent for Shannons

Henry Shanklin

U.S. Agent, Wichita

Graham Rogers

Charles Tucker

John White
his mark

Head Chief Absentee Shannons

Samuel Hill

2d Chief Absentee Shannons

for Charles and John