Ratified treaty no. 260, Documents relating to the negotiation of the treaty of June 22, 1852, with the Chickasaw Indians. June 22, 1852

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RATIFIED TREATY NO. 260

DOCUMENTS RELATING TO THE NEGOTIATION OF THE

TREATY OF JUNE 22, 1852, WITH THE CHICKASAW INDIANS

Chickasaw L 52.

Benj S. Love
E. Pickens
S. Folsom } Chickasaw Delegates

They have been appointed by Chickasaw Council to conclude a treaty with the Ind. &c

Commissioner of Indian Affairs

Recd 12 May '52

12. Comm. Felix

Washington City
May 12th 1852

To the Commissioner
of Indian Affairs
Sir

The undersigned have been appointed by the Chickasaw Nation of Indians in Council assembled for the purpose of concluding a Treaty with the United States. The object of the proposed Treaty is finally to wind up all of their business east of the Mississippi River: to have a full and satisfactory understanding of the manner in which their Trust funds have been administered: to ascertain definitely the amounts yet remaining on hand with the United States: to place the same thus ascertained on a permanent basis and define more clearly the manner of drawing their funds from the Treasury of the United States.

The subject of this Treaty has been repeatedly discussed heretofore in personal interviews and by correspondence with preceeding Delegations from our people. For more than four years the Chickasaws have expressed a desire and the Department of the U S Government has manifested a willingness to negotiate this Treaty. Two of the present delegation have been in Washington for weeks

ready to enter upon this business. The request and prayer which we have to make of the Commissioner and through him of the President of the United States is that he would designate at an early day some Agent or Commissioner who may be clothed with the proper authority to negotiate a Treaty with our Delegation - We have here at a heavy expense upon our people, we are eager to return home. The Treaty which we desire to make is of great importance to our people but still it involves no questions of difficulty, or doubt, and we hope and believe, that it may be made & concluded satisfactory to both parties in a single day, All we desire now is that the necessary orders may be given and the arrangements made to open the negotiation. We respectfully urge upon the Commissioner that he would forthwith lay our prayer before the President of the United States feeling a perfect confidence that he will act on it with promptness and in accordance with our wishes

With great respect
Your Obedt. Svts

L Lea
Commissioner of Indian affairs

Benjamin S Love
Edmond Pickens his x mark
S. Folsom

Chickasaw Delegation

Chickasaw No 101.

Franklin Harper - Comr.
Washn - June 23 - 1852.

Inc. Treaty negotiated by him with Chickasaw Comrs - Jerow to Washington on 22d - inst - with his report.

Recd - 29 June 52.
Treas. Letter of acknl sent
to Secy of Interior 29 June 52

Comr -

Copy of a

Treaty Made & Concluded at Washington 22d June, 1852 between Henson Harper, U.S. Commissioner,

and

Col Edmund Pickens Benj. S. Love, & Sampson Folsom, Comm. appointed for that purpose by the Chickasaw Tribe of Indians.

Washington, June 23, 1852.

Sir,

I have the honor to submit herewith a treaty which I have arranged, in obedience to your instructions, with the Commissioners appointed for that purpose, by the Chickasaw Tribe of Indians.

The objects embraced in this treaty have long been sought by the Chickasaw people, but various circumstances have hitherto delayed their accomplishment. The most important of these objects is to effect a speedy disposal of all their lands east of the Mississippi river: to obtain a full and satisfactory understanding of the manner in which their trust fund has been administered; to ascertain definitely the amount yet remaining with the United States: to place the same, thus ascertained, on a permanent basis; and to define more clearly the manner of drawing their monies from the Treasury of the United States. Other objects are also em-

braced, which will be adverted to in their order.

The first article simply re-assures to the Chickasaws the continuance of a resident Agent of the United States among them. This is done in mere deference to their wishes, and to quiet their apprehensions, doubts having been expressed as to their right to a separate Agent, since their political union with the Choctaws. The right, however, is plainly guaranteed to them by former treaties.

The second article provides for the speedy sale, under the direction of the President of the United States, of the remnant of their lands lying east of the Mississippi river, held in trust by the Government. By the treaty made on Pontotoc creek, in 1832, and the treaty of Washington, amendatory thereto, in 1834, the Chickasaws ceded to the United States all their lands east of the Mississippi river, upon condition that the United States should survey and dispose of the same as other public lands are sold, and the proceeds thereof, after defraying the necessary expenses in said treaties specified, should be kept as a trust fund for the sole use and benefit of said nation. A portion of these lands still remains unsold, although most of them have been subject to entry for the last eight years at the reduced price of twenty and a half cents per acre. The expenses of keeping open a land office for the sale of these lands, with which the Chickasaws are chargeable, have, for a long time past, not been justified by the receipts: yet the Chickasaws are unwilling to abandon them, as provided by the treaty, and have sought to sell them to the United States. The proposition has been declined, however, as not consistent with the interest of the ~~Government~~. The present treaty, therefore, simply provides for a speedy sale of the lands, as a measure of relief to the Chickasaws. The quantity still unsold is over two hundred thousand acres, and their release from the

trust in which they are held will be of advantage to the State of Mississippi in which the lands lie.

The third article provides for the adjustment of a claim to a reservation of land in the State of Tennessee, long contended for by the Chickasaws. By the fourth article of the treaty of October, 1818, a reservation of four miles square, including a salt lick on Spring, on or near the river Sandy, a branch of the Tennessee river, was made by the Chickasaws for certain purposes therein specified. Since that time, three several efforts have been made by them to adjust this claim — first, by the treaty of Franklin, in 1830, which was not ratified by the Senate; again, by an article in the treaty of 1832 which was stricken out by the Senate; and again, by an article in the supplemental treaty of 1834, which was also rejected by the Senate. Moreover it appears that a memorial was addressed by the Chiefs of the Nation to the President of the United States, in the year 1836, com-

plaining of intrusions upon the reservation, and praying the removal of the intruders. The Attorney General being consulted as to the right of the President to employ military force to dispossess the intruders, expressed the opinion that it was left just to the Chickasaws to regard the reservation as belonging to them, until the United States enforced the forfeiture as provided by the treaty of 1818, and he therefore answered the question in the affirmative. The Chickasaws still claim this reservation — (which, as would seem, has been constantly recognized by the Executive branch of the Government, and, for reasons unknown, rejected by the Senate,) — alleging that they are not aware of any relinquishment of their right thereto; but, in order to terminate the controversy, they agree to submit it, for final decision, to the Secretary of the Interior

The fourth article provides for a thorough examination of the National

account of the Chickasaws, with the United States, resulting from the Trusts created by the Treaties of 1832 and 1834. The Chickasaws allege that errors have been committed against them, and that they have been subjected to losses and expenses in the management of their fund which should properly be borne by the United States. In order to satisfy them, therefore, and to vindicate the justice and fair dealing of the Government, it is agreed to afford them all necessary facilities for a full investigation. Their exceptions to the account, when stated as directed, are to be referred to the Secretary of the Interior, whose decision is made final.

It is farther alleged by the Chickasaws, that funds held in trust by the United States for their orphans and incompetents have been wrongfully paid out to persons having no right to receive the same. The fourth article provides also for the investigation of all such cases of complaint, by an Agent of the United States, under the direction of the Secretary of the Interior, in order that full justice may be done in the premises.

The fifth article provides for the continuance of the Chickasaw Fund with the United States, in trust as heretofore - which is to be kept constantly invested in safe and profitable stocks, and the interest arising there from to be paid annually to the Chickasaw Nation. The Chickasaws desire that their fund shall on no account be diminished, with this reservation, however, "that such amount thereof "as may be necessary to effect the per- "manent settlement of their tribe, as con- "templated by the Treaty of 1834, shall be "subject to the control of their General "Council." Their object is, if possible, to obtain a complete and absolute control over the country which they purchased of the Choctaws. - By the terms of their compact, the two tribes were united under one government; but this is found not to comport with the interests and happiness of

the Chickasaw people, and they de-
sire to resume their separate nation-
ality.

The sixth article is intended as a
recognition on the part of the United
States of a new and more regular
form of Government adopted by the
Chickasaws, in lieu of the body of "per-
sons" particularly mentioned in the 4th
article of the treaty of 1834, and their
successors in office, constituted to ma-
nage their financial and tribal
interests. The old body, commonly
designated as Commissioners, has be-
come extinct by deaths and resigna-
tions; and the new government insti-
tuted by the Chickasaws is deemed
better adapted to their condition
and wants. It is republican in its
character, with a written constitu-
tion, and consists of a General Coun-
cil elective by the people, a Chief,
and other necessary officers.

The clause in this article which
declares that no certificate or deed
given or executed by the "persons" afore-
said, constituting the old body of Com-
missioners, from which the approval
of the President of the United States
has once been withheld, shall here-
after be approved, unless the same shall
first receive the sanction of the Chick-
asaw Council, or such officers as may
be by said Council appointed for that
purpose, seems to be but an equita-
ble measure of protection to the Chick-
asaw people. Much of the action of
the old body of Commissioners is known
to have been, to say the least, exceed-
ingly loose and irregular. The repeated
refusals to approve their acts, by dif-
ferent Presidents, is evidence of this fact.
The Chickasaws ask it, therefore, as a
matter of their justice, that they shall
be shielded from the dangers of renewed
applications, under successive admi-
nistrations, for the establishment of
unfounded claims against them. What
is right, they plead the honor of an
unsullied national name to approve
and sanction. It is only against wrong
and injustice, that they seek the power

of self-protection.

The seventh article is intended to provide against the payment of any claim or account out of the Chickasaw Fund, by the United States, for services rendered, or contracted to be rendered the nation, under the authority of the General Council or any of its officers, until the same has first been considered and allowed by the Chickasaw Council.

The eighth article provides that the Chickasaw Council shall be furnished with regular semi-annual accounts of the receipts and disbursements of their national fund by the Government of the United States.

The ninth article allows to the Chickasaw nation the sum of fifteen hundred dollars, in full of expenses incurred by their Commissioners in negotiating this treaty. The Chickasaw Commissioners are thus of the United States, because of the expense to which their nation has been subjected by former efforts to effect a negotiation, and because the same has been done in the case of the Potowatamies, Cherokees, and other tribes with which treaties have been arranged at Washington. I have therefore thought it but just to concede it. Indeed, I could see no principle which would allow a departure in their case from what appears to have been the liberal policy of the Government towards other Indian tribes. There are three Commissioners in attendance, one of whom, not speaking the English language, has required an Interpreter. The sum stipulated, therefore, is not more than sufficient to defray the reasonable expenses of the Commissioners.

With high consideration,

Your obt. servt.

Kenton Harker

Spl. Comr. of U.S. Ag't. Chickasaws.

Hon. L. Lea,

Comr. Indian Affairs,

Washington,

D.C.

Articles of a Treaty, concluded at Washington on the 22d. day of June, 1852, between Kenton Harper, Commissioner on the part of the United States, and Col. Edmund Pickens, Benjamin S. Love, and Sampson Folsom, Commissioners duly appointed for that purpose, by the Chickasaw tribe of Indians.

Article 1.

The Chickasaw tribe of Indians, acknowledge themselves to be under the guardianship of the United States, and as a means of securing the protection guaranteed to them by former treaties, it is agreed that an agent of the United States, shall continue to reside among them.

Article 2.

The expenses attending the sale of the lands ceded by the Chickasaws, to the United States, under the treaty of 1832, having for some time past exceeded the receipts, it is agreed that the remnant of the lands so ceded, and yet unsold, shall be disposed of, as soon as practicable, under the direction of the President of the United States, in such manner, and in such quantities, as in his judgment, shall be least expensive to the

Chickasaws, and most conducive to their benefit.

Provided that a tract of land, including the grave yard, near the town of Pontotoc, where many of the Chickasaws and their white friends are buried, and not exceeding four acres in quantity, shall be, and is hereby set apart and conveyed to the said town of Pontotoc, to be held sacred for the purposes of a public burial ground forever.

Article 3.

It is hereby agreed that the question of the right of the Chickasaws, so long contended for by them, to a reservation of four miles square on the river Sandy, in the State of Tennessee, and particularly described in the 4th article of the treaty concluded, at Old Town, on the 19th day of October, 1818, shall be submitted to the Secretary of the Interior, who shall decide, what amount, if any thing, shall be paid to the Chickasaws for said reservation.

Provided, however, that the amount so to be paid, shall not exceed one dollar, and twenty five cents per acre.

Article 4.

The Chickasaws allege, that in the management and disbursement of their funds by the Government they have been subjected to losses and expenses, which properly should be borne by the United States,- With the view, therefore of doing full justice in the premises, it is hereby agreed, that there shall be, at as early a day as practicable, an account stated, under the direction of the Secretary of the Interior exhibiting in detail all the monies which from time to time have been placed, in the Treasury to the credit of the Chickasaw Nation, resulting from the treaties of 1832, and 1834, and all the disbursements made therefrom.- and said account, as stated, shall be submitted to the Chickasaws, who shall have the privilege, within a reasonable time, of filing exceptions thereto, and any exceptions so filed, shall be referred to the Secretary of the Interior, who shall adjudicate, the same, according to the principles of law and equity, and his decision shall be final, and conclusive on all concerned.-

It is also alleged by the Chickasaws that there are numerous cases in which monies held in trust by the United States,

for the benefit of Orphan and incompetent Chickasaws, have been wrongfully paid out, to persons having no right to receive the same. It is therefore further agreed, that all such cases shall be investigated by the agent of the United States under the direction of the Secretary of the Interior, and if it shall appear to the satisfaction of said Secretary, that any of the orphans and incompetents, have been defrauded by such wrongful payment, the amount thus misapplied shall be accounted, for by the United States, as if no such payment had been made.

[Provided

That the provisions of this article, shall not be so construed, as to impose any obligation on the United States, to reimburse any expenditures, heretofore made in conformity with the stipulations contained in the treaties of 1832, and 1834; and provided further, that the United States, shall not be liable to repay moneys held in trust for the benefit of orphan and incompetent Chickasaws in any case, in which payment of such money has been made upon the recommendation or certificate of the persons appointed for that purpose in the Fourth article of the Treaty of 1834, or of their successors, and in other

respects in conformity with the provisions of that article; and provided further, that the United States shall not be held responsible, for any reservation of land or of any sale, lease or other disposition of the same made, sold, leased or otherwise disposed of, in conformity with the several provisions of said treaties of 1832, and 1834.]

Article 5.

The Chickasaws are desirous that the whole amount of their National fund, shall remain with the United States, in trust, for the benefit of their people, and that the same shall on no account be diminished. It is therefore, agreed that the United States shall continue to hold said fund, in trust, as aforesaid, and shall constantly keep the same invested in safe and profitable stocks, the interest upon which shall be annually paid to the Chickasaw Nation.

Provided, that so much of said fund, as the Chickasaws, may require for the purpose of enabling them to effect the permanent settlement of their tribe as contemplated by the treaty of 1834, shall be subject to the control of

Their General Council.

Article 6.

The powers and duties conferred on certain persons particularly mentioned in the 4th article of the Treaty of 1834, and their successors in office, shall hereafter be vested in, and performed by the General Council of the Chickasaws, or such officers, as may be by said Council appointed for that purpose; and no certificate or deed given or executed by the persons aforesaid, from which the approval of the President of the United States has once been withheld, shall be hereafter approved, unless the same shall first receive the sanction of the Chickasaw Council, or the officers appointed as aforesaid, and of the agent of the United States, for said Chickasaw Nation.

Article 7.

No claim or account shall hereafter be paid by the Government of the United States, out of the Chickasaw fund, unless the same shall have first been considered and allowed, by the Chickasaw General Council. Provided, however, that this clause, shall not affect payments upon

claims under existing contracts, made by the authority of the Chickasaw General Council, or interfere with the due administration, of the acts of Congress, regulating trade and intercourse with the Indian tribes.

Article 8.

It is further agreed, that regular semi-annual accounts, of the receipts and disbursements of the Chickasaw fund, shall be furnished the Chickasaw Council by the Government of the United States.

Article 9.

The sum of fifteen hundred dollars, shall be paid the Chickasaw Nation, in full of expenses incurred by their Commissioners in negotiating this Treaty.

[Article 10.

And it is further stipulated, that in no case hereafter, shall any money due or to be paid under this treaty, or any former treaty, between the same contracting parties, be paid to any agent or attorney; but shall in all cases be paid

directly to the party or parties primarily entitled thereto.]

In witness whereof, the contracting parties have hereto set their hands and seals, the day and year above written.

Kenton Harper (Seal)
Commr. for U States.

Edmund his X mark Pickens (Seal)

Benjamin S Love (Seal)

Sampson Folsom (Seal)
Commissioners for the Chickasaws

In presence of.
Charles E. Mix.
Chief Clerk. Office Indian affairs.
L. R. Smoot.
T. R. Crittenden.
H. Miller.
Aaron V. Brown.
Interpreter.