

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

Report of Commissioner of Indian Affairs relative to the amount appropriated March 3, 1883, for Cherokee Nation, and legislation to protect the rights of adopted citizens of said nation.

FEBRUARY, 4, 1884.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, February 1, 1884.

SIR: I have the honor to submit herewith copy of a report of 26th ultimo, from the Commissioner of Indian Affairs, with accompanying papers noted therein, in relation to the action of the Cherokee national authorities in the distribution of the sum of \$300,000, which was appropriated in the sundry civil act of March 3, 1883 (22 Stat., 624), to be paid into the treasury of the Cherokee Nation out of the funds due under appraisalment for Cherokee lands west of the Arkansas River.

This question involves that of the status of the Delaware and Shawnee tribes of Indians and others who have become incorporated with the Cherokees by approved agreements under the provisions of Article 15 of the treaty of July 19, 1866 (14 Stat., 803, 804), and by other treaty stipulations and laws of the nation regarding citizenship, and the Commissioner recommends that such action may be taken by Congress as will protect the rights of those who are citizens of the said nation as well by adoption as by blood.

The matter is respectfully presented for the information and the consideration and action of the Congress.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

The PRESIDENT OF THE SENATE PRO TEMPORE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 26, 1884.

SIR: By the sundry civil appropriation act, approved March 3, 1883 (22 Stat., p. 624), the sum of \$300,000 was appropriated to be paid into the treasury of the Cherokee Nation, out of the funds due under ap-

praisement for Cherokee lands west of the Arkansas River, to be expended as the acts of the Cherokee legislature directed.

For the disbursement of this appropriation the Cherokee National Council passed an act entitled "An act providing for the payment of the balance due on lands west of 95°, per capita," in language as follows:

Be it enacted by the National Council, That when the additional amount appropriated by the act of Congress, of March 3, 1832, shall have been received by the treasurer of the Cherokee Nation, the principal chief shall cause the same to be paid out, per capita, to the citizens of the Cherokee Nation by blood.

Be it further enacted, That for the purpose of carrying out the provisions of this act, the principal chief shall, at his earliest convenience, appoint two competent persons in each district to make correct census rolls of the persons entitled, and turn over the same, certified by him, to the treasurer of the Cherokee Nation, who shall file the same in his office.

Be it further enacted, That the persons appointed by the principal chief to take the census, shall each be entitled to three dollars per day while in actual service.

Be it further enacted, That as soon as advised by the proper authority that the funds are ready, it shall be the duty of the treasurer to make requisition for the same, and on receiving said funds, it shall be his duty to pay the same out, per capita, to citizens of the Cherokee Nation by blood, according to the census rolls.

In making said payment the treasurer is hereby directed to pay the funds, in person, to all adult persons entitled to the same, and to parents, guardians, and heads of families, representing minors and disabled persons, and to no other person or persons whomsoever. It shall be the duty of the treasurer to keep a receipt-roll of the payments made and to whom, and which shall be reported to the National Council next following said payment.

Be it further enacted, That the sum of \$3,000, or so much thereof as may be necessary to defray the expense of taking the census and preparing the rolls, is hereby appropriated out of any funds to be received for this purpose.

Be it further enacted, That the treasurer shall make the payments at Tahlequah, Vinita, Fort Gibson and Webber's Falls.

Tahlequah, May 18, 1883.

ROACH YOUNG,
President of Senate.

C. H. TAYLOR,
Clerk of Senate.

Concurred in by Council with the following amendment:
Insert "Cherokee" between "by" and "blood."

JOHN SEVIER,
Speaker of Council.

W. S. CORDREY,
Clerk of Council.

This bill was returned to the National Council by the principal chief, Hon. D. W. Bushyhead, with his objections in an able veto message on the 18th of May, 1883, in which he states:

To the payment of the money, per capita, I do not object; but to the part of the bill which confines that payment to a certain class of citizens, exclusive of other classes I do object, as calculated to defeat the object of the bill, because contrary to our constitution and our treaties. The part of the bill I refer to is the part confining the payment to Cherokee citizens by right of Cherokee blood.

After admitting certain statements as true and undeniable, certain other facts must be held to be equally true and indisputable. Then calling the attention of the National Council to the fact that the Cherokees by blood, who were once the sole owners, were competent and qualified to share their common interest with whoever they might choose, and, after pointing out the manner of so doing, Chief Bushyhead invited their attention to the constitution of 1839, when the nation was composed of the children of men and women of Cherokee blood, in other words, "native Cherokees," and to the treaty of 1866, when other classes of persons were vested with all the rights of "native Cherokees" upon

specified conditions, viz., colored citizens and Delaware and Shawnee citizens under the ninth and fifteenth articles of said treaty, and further attention was called to the fifth article of the constitution (page 31, compiled laws), which specified who should be taken and declared to be citizens of the Cherokee Nation, and concluded as follows, viz:

If the lands of the nation were and are the common property of citizens, then no citizen can be deprived of his or her right and interest in the property without doing an injustice, and without a violation of the constitution, which all were equally bound to observe and defend. While the lands remain common property, all citizens have an equal right to the use of it. When any of the land is sold under provisions of treaty, all citizens have an equal right to the proceeds of their joint property whether divided per capita or invested.

In the reconsideration of the vetoed bill nine senators voted to pay the money, as indicated in the bill, and three voted in favor of the chief's objection, making the constitutional number required of two-thirds in favor of the original bill, which was concurred in, also, by the Council by a two-thirds vote, as required by the constitution, thereby becoming a law on the 19th of May, 1883.

By the terms of an agreement made April 8, 1867, and approved by the President April 11, 1867, between the Cherokees and the Delawares, as provided in the fifteenth article of the treaty of 1866, it was decreed that—

On the fulfillment by the Delawares of the foregoing stipulations all the members of the tribe registered as above provided shall become members of the Cherokee Nation, with the same rights and immunities, and the same participation (and no other) in the national funds as native Cherokees, save as hereinbefore provided. And the children hereafter born of such Delawares so incorporated into the Cherokee Nation shall in all respects be regarded as native Cherokees.

By the agreement made June 7, 1869, and approved by the President June 9, 1869, between the Cherokees and Shawnees, as provided in the fifteenth article of the Cherokee treaty of 1866, it was stipulated, among other things:

That said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee Nation: *Provided*, That all of said Shawnees who shall elect to avail themselves of the provisions of this agreement, shall register their names and permanently locate in the Cherokee country as herein provided, within two years from the date hereof, otherwise they shall forfeit all rights under this agreement.

The records of this office show who, among the Delawares and Shawnees, registered as required by said agreement.

The Shawnees incorporated in the Cherokee Nation, by proper petition, memorialized the Cherokee National Council at its late session that, as the act of May, 1883, drew a line of distinction between the citizens of the Cherokee Nation, which was in violation of their treaty stipulations and of the constitution of the Cherokee Nation, the amendments to which were approved at a general convention of the people of the nation, held at Tahlequah on the 28th day of November, 1866, and in violation, too, of the agreement made with the Shawnees on the 7th of June, 1869, the said council would take such action in the premises as would effectually prevent in the future the making of any law drawing such lines of distinction between citizens of the Cherokee Nation, and make such reparation to the Shawnee citizens as should be deemed prudent and best, thereby defining the status of the Shawnee citizens in the Cherokee Nation.

This memorial was submitted to the National Council by Chief Bushyhead on the 20th November, 1883. The Senate passed a resolution to

refer the subject to a joint committee, but it was rejected by the council. It was again called up in the Senate and referred to the Committee on Federal Relations. The committee made the investigation and reported favorably thereon, and submitted the draft of a bill, No. 38, defining the status of adopted citizens. This bill, when it came up in the Senate for final action, was rejected by a vote of 6 to 12. So anxious, however, was Chief Bushyhead to have justice and equity meted out, that he again presented the matter to the Senate, and it was referred to the same committee (Federal Relations), but, in view of the former decisive vote of the Senate, no action was taken thereon by that committee.

Now I am in receipt, through a communication of January 9, 1884, from Agent John Q. Tufts, of a similar petition from the Shawnee Indians incorporated into the Cherokee Nation, to the Secretary of the Interior, setting forth the action of the Cherokee Council in the distribution of the aforesaid \$300,000, and asking to have their status in the nation definitely settled. Agent Tufts reports that these memorialists have been paid their portion at each Cherokee per capita payment, as the agreement aforesaid calls for, until the last, which by the act of the Cherokee Council passed May, 1883, was paid to Cherokees "*by blood only*." He asks:

Whether the Department will permit the Cherokees to violate their agreement made with the Shawnees, Delawares, and Freedmen, or not? If the Department takes no action in the matter, other violations of the agreement will surely follow, until these people will be compelled to remove from the Cherokee Nation. I respectfully recommend that prompt action be taken by the Department.

The twentieth section of the third article of the constitution of the Cherokees (Compilation of Laws, p. 16, edition of 1881) places the sole power of deciding on the construction of all treaty stipulations with the National Council, and notwithstanding the language of the treaty, the constitution and the agreement is so plain and direct that but one construction can be placed thereon as to the claim of these Shawnee memorialists to all the rights of full Cherokee citizens; yet, the National Council for the past two sessions has by its action determinedly shown that it will not regard the plainest provisions of their treaty, constitution, or Shawnee agreement, nor accord to the freedmen, Shawnees, and Delawares who have been incorporated into the nation all the rights to which they are so manifestly entitled, even after its own Senate Committee on Federal Relations had unmistakably declared, in its report on bill No. 38 defining the status of adopted citizens, in favor of according full citizenship to said parties. I therefore recommend that Congress be asked, in all subsequent appropriations that may be made to the Cherokees as a nation, to define, in language not to be misunderstood, who comprise the Cherokee Nation, by inserting after the words "Cherokee Nation" the words, viz, Cherokees, Delawares, Shawnees, all colored persons and their descendants mentioned in the ninth article of the treaty of 1866, and all other persons legally incorporated therein by reason of intermarriage, adoption, or treaty provision."

I submit herewith a copy of this report, and two copies of the following papers, viz:

The Cherokee treaty, July 19, 1866.

The Delaware agreement of April 8, 1867.

The Shawnee agreement of June 7, 1869.

The Cherokee act of May 19, 1883.

The veto message of Chief Bushyhead, May 18, 1883.

The Shawnee memorial to Cherokees, November 12, 1883.

The message of Chief Bushyhead, November 20, 1883, submitting Shawnee memorial.

The report of Senate Committee on Federal Relations.

The vote on Senate bill No. 33, in the Senate, defining the status of adopted citizens.

The Shawnee memorial to the Secretary of the Interior, December 29, 1883.

The letter of January 9, 1884, of Agent Tufts, transmitting memorial.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.



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 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. A. 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 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 otherwise 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 employes 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 or 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 such 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 the 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 2d 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 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 Appotholehala 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 purpose 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 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 two 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 con-

trol, 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 cost 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 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 our Lord one thousand eight hundred and sixty-six, and of the Independence of the United States of America the ninety-first.

[SEAL.]

ANDREW JOHNSON.

By the President :

HENRY STANBERRY,

Acting Secretary of State.

Articles of agreement made this 8th day of April, A. D. 1867, between the Cherokee Nation, represented by William P. Ross, principal chief, Riley Keyes, and Jesse Bushyhead, delegates duly authorized, parties of the first part, and the Delaware tribe of Indians, represented by John Connor, principal chief; Charles Journeycake, assistant chief; Isaac Journeycake, and John Sarcoxie, delegates for and on behalf of said Delaware tribe, duly authorized, witnesseseth :

Whereas by the fifteenth article of a certain treaty between the United States and the Cherokee Nation, ratified August 11, 1866, certain terms were provided, under which friendly Indians might be settled upon unoccupied lands in the Cherokee Country east of the line of 96° of west longitude, the price to be paid for such lands to be agreed on by the Indians to be thus located and the Cherokee Nation, subject to the approval of the President of the United States; and whereas by a treaty between the United States and the Delaware tribe of Indians, ratified August 10, 1866, the removal of the said Delawares to the Indian Country south of Kansas was provided for; and, in the fourth article whereof, an agreement was made by the United States to sell to the Delawares a tract of land, being part of a tract, the cession of which by the Cherokees to the United States was then contemplated; and whereas no such cession of land was made by the Cherokees to the United States, but, in lieu thereof, terms were provided, as hereinbefore mentioned, under which friendly Indians might be settled upon their lands; and whereas, a full and free conference has been had between the representatives of the Cherokees and the Delawares, in view of the treaties herein referred to, looking to a location of the Delawares upon the Cherokee lands, and their consolidation with said Cherokee Nation :

Now, therefore, it is agreed between the parties hereto, subject to the approval of the President of the United States, as follows :

The Cherokees, parties of the first part, for and in consideration of certain payments, and the fulfillment of certain conditions hereinafter mentioned, agree to sell to the Delawares, for their occupancy, a quantity of land east of the line of the 96° west longitude, in the aggregate equal to one hundred and sixty acres for each individual of the Delaware tribe, who has been enrolled upon a certain register made February 18, 1867, by the Delaware agent, and on file in the Office of Indian Affairs, being the list of Delawares who elect to remove to the "Indian Country," to which list may be added, only with the consent of the Delaware council, the names of such other Delawares as may, within one month after the signing of this agreement, desire to be added thereto, and the selections of the lands to be purchased by the Delawares may be made by said Delawares in any part of the Cherokee reservation east of said line of 96°, not already selected and in possession of other parties, and in case the Cherokee lands shall hereafter be allotted among the members of said nation, it is agreed that the aggregate amount of land herein provided for the Delawares, to include their improvements according to the legal subdivisions when surveys are made (that is to say, one hundred and sixty acres for each individual), shall be guaranteed to each Delaware incorporated by these articles into the Cherokee Nation, nor shall the continued ownership and occupancy of said land by any Delaware so registered be interfered with in any manner whatever without his consent, but shall be subject to the same conditions and restrictions as are by the laws of the Cherokee Nation imposed upon native citizens thereof.

Provided that nothing herein shall confer the right to alienate, convey, or dispose of any such lands, except in accordance with the constitution and laws of said Cherokee Nation.

And the said Delawares, parties of the second part, agree that there shall be paid to the said Cherokees from the Delaware funds now held or hereafter received by the United States, a sum of money equal to one dollar per acre for the whole amount of one hundred and sixty acres of land for every individual Delaware who has already been registered upon the aforesaid list, made February 18, 1867, with the additions thereto heretofore provided for.

And the Secretary of the Interior is authorized and requested to sell any United States stocks belonging to the Delawares to procure funds necessary to pay for said lands; but in case he shall not feel authorized, under existing treaties, to sell such bonds belonging to the Delawares, it is agreed that he may transfer such United States bonds to the Cherokee Nation, at their market value, at the date of such transfer.

And the said Delawares further agree, that there shall be paid from their funds now or hereafter to come into possession of the United States, a sum of money which shall sustain the same proportion to the existing Cherokee national fund that the number of Delawares registered as above mentioned and removing to the Indian country sustains to the whole number of Cherokees residing in the Cherokee Nation. And for the purpose of ascertaining such relative numbers, the registers of the Delawares herein referred to, with such additions as may be made within one month from the signing of this agreement, shall be the basis of calculation as to the Delawares, and an accurate census of the Cherokees residing in the Cherokee Nation shall be taken under the laws of that nation within four months, and properly certified copies thereof filed in the Office of Indian Affairs, which shall be the basis of calculation as to the Cherokees.

And that there may be no doubt hereafter as to the amount to be contributed to the Cherokee national fund by the Delawares, it is hereby agreed by the parties hereto that the whole amount of the invested funds of the Cherokees, after deducting all just claims thereon, is \$678,000.

And the Delawares further agree, that in calculating the total amount of said national fund there shall be added to the said sum of \$678,000 the sum of \$1,000,000, being the estimated value of the Cherokee neutral lands in Kansas, thus making the whole Cherokee national fund \$1,678,000; and this last-mentioned sum shall be taken as the basis for calculating the amount which the Delawares are to pay into the common fund.

Provided, that as the \$678,000 of funds now on hand belonging to the Cherokees is chiefly composed of stocks of different values, the Secretary of the Interior may transfer from the Delawares to the Cherokees a proper proportion of the stocks now owned by the Delawares of like grade and value, which transfer shall be in part of the pro rata contribution herein provided for by the Delawares to the funds of the Cherokee Nation; but the balance of the pro rata contribution by the Delawares to said fund shall be in cash or United States bonds, at their market value.

All cash, and all proceeds of stocks, whenever the same may fail due or be sold, received by the Cherokees from the Delawares under the agreement, shall be invested and applied in accordance with the 23d article of the treaty with the Cherokees of August 11, 1866.

On the fulfillment by the Delawares of the foregoing stipulations, all the members of the tribe registered as above provided, shall become members of the Cherokee Nation, with the same rights and immunities, and the same participation (and no other) in the national funds, as native Cherokees, save as hereinbefore provided.

And the children hereafter born of such Delawares so incorporated into the Cherokee Nation, shall in all respects be regarded as native Cherokees.

WILL P. ROSS,

Principal Chief.

RILEY KEYES,

Cherokee Delegation.

his
JOHN + CONNOR,
mark.

Principal Chief.

CHARLES JOURNEYCAKE.

ISAAC JOURNEYCAKE.

his
JOHN + SARCOXIE,
mark.

Delaware Delegation.

Executed and delivered in our possession by the above-named delegates of the Cherokee and Delaware Nations, at the City of Washington, in the District of Columbia, the day and year first above written.

JOHN G. PRATT.

W. A. PHILLIPS.

EDWARD S. MENAGETH.

DEPARTMENT OF THE INTERIOR,
April 11, 1867.

The within agreement between the Cherokee and Delaware tribes of Indians, concluded on the 8th instant, and providing for uniting the two tribes as contemplated by the Cherokee treaty of July 19, 1866, is respectfully submitted to the President, with the recommendation that it be approved.

O. H. BROWNING,
Secretary.

Approved April 11, 1867.

ANDREW JOHNSON.

Agreement between Shawnees and Cherokees, concluded June 7, 1869, approved by the President June 9, 1869.

Articles of agreement, made and entered into at Washington, D. C., this seventh day of June, A. D. 1869, by and between H. D. Reese and William P. Adair, duly authorized delegates representing the Cherokee Nation of Indians, having been duly appointed by the National Council of said Cherokees, parties of the first part, and Graham Rogers and Charles Tucker, duly authorized delegates representing the Shawnee tribe of Indians, parties of the second part, witnesseth:

Whereas it is provided by the fifteenth article of the treaty between the United States and the Cherokee Indians, concluded July 19th, 1866, that 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 certain provisions specified in said article; and

Whereas the Shawnee tribe of Indians are civilized and friendly with the Cherokees and adjacent tribes, and desire to settle within the Cherokee country on unoccupied lands east of 96°;

It is therefore agreed, by the parties hereto, that such settlement may be made upon the following terms and conditions, viz:

That the sum of five thousand dollars belonging to the Shawnee tribe of Indians, and arising under the provisions of treaties between the United States and said Shawnee Indians, as follows, viz:

For permanent annuity for educational purposes, per fourth article treaty, third August, 1795, and third article treaty, tenth of May, 1854, one thousand dollars;

For interest at five per centum, on forty thousand dollars, for educational purposes, per third article treaty, 10th May, 1854, two thousand dollars;

For permanent annuity, in specie, for educational purposes, per fourth article treaty, 29th September, 1817, and third article, 10th May, 1854, two thousand dollars;

Shall be paid annually to Cherokee Nation of said Indians, and that the annuities and interest, as recited, and the investment or investments upon which the same are based, shall hereafter become and remain the annuities and interest and investment or investments of the Cherokee Nation of Indians the same as they have been the annuities and interest and investment or investments of the Shawnee tribe of Indians. And that the sum of fifty thousand dollars shall be paid to the said Cherokees, as soon as the same shall be received by the United States, for the said Shawnees, from the sale of the lands in the State of Kansas known as the Absentee Shawnee lands, in accordance with the resolution of Congress, approved April 7th, 1869, entitled "A resolution for the relief of settlers upon the Absentee Shawnee lands in Kansas," and the provisions of the treaty between the United States and the Shawnee Indians, concluded May 10th, 1854; and also that the said Shawnees shall abandon their tribal organization.

And it is further agreed, by the parties hereto, that in consideration of said payments and acts agreed upon, as hereinbefore stated, that the said Cherokees will receive the said Shawnees—referring to those now in Kansas, and also to such as properly belong to said tribe who may be at present elsewhere, and including those known as the Absentee Shawnees now residing in Indian Territory—into the country of the said Cherokees, upon unoccupied lands east of 96°; and that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee Nation: *Provided*, That all of said Shawnees who shall elect to avail themselves of the provisions of this agreement shall register their names, and permanently locate in the Cherokee country as herein provided within two years from the date hereof, otherwise they shall forfeit all rights under this agreement.

In testimony whereof the parties hereto have hereunto subscribed their names and affixed their seals on the day and year first above written.

H. D. REESE, [SEAL.]
WM. P. ADAIR, [SEAL.]

Delegates representing the Cherokee Nation of Indians.

GRAHAM ROGERS, [SEAL.]
CHARLES TUCKER, [SEAL.]

Delegates representing the Shawnee tribe of Indians.

Attest:

R. W. IRWIN.
H. E. MCKEE.
A. N. BLACKLIDGE.
JAS. B. ABBOTT.

DEPARTMENT OF INTERIOR,
June 9th, 1869.

The within agreement between the Cherokee and Shawnee tribes of Indians, concluded on the 7th inst., and providing for uniting the two tribes as contemplated by the Cherokee treaty of July 19th, 1866, is respectfully submitted to the President with the recommendation that it be approved.

J. D. COX,
Secretary.

Approved June 9th, 1869.

U. S. GRANT.

AN ACT providing for the payment of the balance due on lands west of 96°, per capita.

Be it enacted by the National Council, That when the additional amount appropriated by act of Congress of March 3rd, 1883, shall have been received by the treasurer of the Cherokee Nation, the principal chief shall cause the same to be paid out, per capita, to the citizens of the Cherokee Nation by blood.

Be it further enacted, That for the purpose of carrying out the provisions of this act, the principal chief shall, at his earliest convenience, appoint two competent persons in each district to make correct census rolls of the persons entitled, and turn over the same, certified by him, to the treasurer of the Cherokee Nation, who shall file the same in his office.

Be it further enacted, That the persons appointed by the principal chief to take the census, shall each be entitled to three dollars per day while in actual service.

Be it further enacted, That, as soon as advised by the proper authority that the funds are ready, it shall be the duty of the treasurer to make requisition for the same, and on receiving said funds, it shall be his duty to pay out the same, per capita, to citizens of the Cherokee Nation by blood, according to the census rolls.

In making said payment, the treasurer is hereby directed to pay the funds, in person, to all adult persons entitled to the same, and to parents, guardians, and heads of families, representing minors and disabled persons, and to no other person or persons whomsoever. It shall be the duty of the treasurer to keep a receipt-roll of the payments made, and to whom, and which shall be reported to the National Council next following said payment.

Be it further enacted, That the sum of three thousand dollars, or so much thereof as may be necessary to defray the expense of taking the census and preparing the rolls, is hereby appropriated, out of any funds to be received, for this purpose.

Be it further enacted, That the treasurer shall make the payments at Tahlequah, Vinita, Fort Gibson, and Webber's Falls.

TAHLEQUAH, May 18, 1883.

ROACH YOUNG,
President of Senate.

C. H. TAYLOR,
Clerk of Senate.

Concurred in by council with the following amendment:
Insert "Cherokee" between "by" and "blood."

JOHN SEVIER,
Speaker of Council.

W. S. CORDREY,
Clerk of Council.

This bill being returned by the principal chief with his objections, the senate proceeded to reconsider the same, and upon being put to a vote, nine senators voted to

pay it as it stands, and three voted in favor of the chief's objections, making the constitutional number requiring two-thirds in favor of the original bill.

May 18, 1883.

ROACH YOUNG,
President of Senate.

C. H. TAYLOR,
Clerk of Senate.

Concurred in by the council with two-thirds vote, according to the constitution.
May 19, 1883.

JOHN SEVIER,
Speaker of Council.

W. S. CORDREY,
Clerk of Council.

Veto message.

EXECUTIVE DEPARTMENT,
CHEROKEE NATION, INDIAN TERRITORY, TAHLEQUAH.
May 18, 1883.

To the Honorable the Senate in extra session convened:

GENTLEMEN: I herewith respectfully return the bill entitled "An act providing for the payment of the balance due on the lands west of 96° per capita," which originated in your body, for the following reasons:

To the payment of the money per capita I do not object, but to the part of the bill which confines that payment to a certain class of citizens exclusive of other classes I do object, as calculated to defeat the object of the bill, because contrary to our constitution and our treaties. The part of the bill I refer to is the part confining the payment to Cherokee citizens by right of Cherokee blood.

1st. It may be said that the payment per capita in 1881-'82 was made to this class entirely upon the ground that they alone had a right to that money; this is true.

It may also be said that the lands of the Cherokee Nation west, including those now considered, were conveyed to the Cherokee Nation, at that time composed wholly of Cherokees by blood; that also is true. It may also be said that no deed of conveyance has since been made to other classes of citizens, and that the colored citizens and adopted whites have paid nothing for their interest in these lands; that also cannot be disputed. Lastly, it may be said that the Shawnee and Delaware citizens of this nation, whatever their rights may be to an interest in our lands east of 96°, have paid nothing for an equal interest with native Cherokees to the lands west of the Arkansas River; that is undeniable.

But, senators, it is just as *true* and *indisputable* that the Cherokees by blood who were once the sole owners of the eastern country and this, were competent and qualified to share their common interest with whoever they might choose. There are two methods of disposing of the national right to this country. One is a sale of lands by national authority alone. The other is by incorporating outsiders, and investing them with the rights and privileges of the native Cherokees without qualification. In either case the common property interest of other citizens is decreased just in proportion to the amount of land sold or the share parted with. What I now affirm is that the Cherokee Nation of Indians had the right of property-holders to either sell their common property to, or share it with, others, if they saw fit, for large or little consideration, by agreement, contract, or treaty, by their own motion and will.

The question is now whether the native Cherokees have done this as respects the colored and other classes of citizens of this nation. Let me remark that it is neither my right, duty, interest, or desire to reduce in the least interest of any portion of our people, whether old settlers, emigrant Cherokees, or any other class, but any portion of the people having an exclusive interest can, if they so choose, part with or share it with others not before entitled. The whole nation can do the same with the national interest in lands, money, and rights. The question is, has the nation done so? If it has, the responsibility of the act is not mine or yours. But the responsibility will be great and ours alone if, *after* the nation has made a solemn covenant and done a solemn act involving its good faith, the representatives of the nation shall expose it to the charge of repudiation and bad faith. I know that you will agree with me that where so much of our future as a nation depends on the good faith of the United States Government, it is of the utmost importance that the nation sustains its own good character for square dealing.

2d. I refer you to the second clause of the constitution of 1839, page 13 Compiled Laws, to show who were *then* alone entitled to citizenship and ownership of the nation. They were specified as the children of men and women of Cherokee blood, in other words "*native Cherokees.*" The National Council could not take away or reduce any of their rights and privileges as exclusive citizens, but they themselves could do so by treaty or by amendment to the constitution.

3d. The "patent" was made to the "Cherokee Nation" in 1838, and the Cherokee Nation was then composed of citizens by right of blood, and so continued to be until the exigencies of the late war arose, when, in 1866, it became necessary to make a new treaty with the United States Government. By this treaty, made by and with this nation, other classes of persons were provided to be vested with all the rights of "*native Cherokees*" upon specified conditions. These conditions have been fulfilled as regards the acknowledged colored citizens of this nation and the so-called Delaware and Shawnee citizens. I refer you to article 9th of said treaty in regard to colored citizens, and article 15th, first clause, as regards Indians provided to be settled east of 96°. The language is, they shall have all the rights of native Cherokees "and" they shall be *incorporated into* and ever after remain a part of the Cherokee Nation on equal terms *in every respect with native Cherokees.*

4th. I now refer you to that part of the constitution which makes acknowledged treaties, the supreme law, and authorizes the National Council solely to construe treaty stipulations. On page 83, Compiled Laws, you will find the names of the president of the then national committee, the speaker of council and principal chief, signed to the construction of the treaty of 1866, by the National Council, and the construction of the several parts of said treaty was formally ratified by a convention of the people as permanent amendments to our constitution. Of these amendments, section 5, page 31, Compiled Laws, adds to "*native-born Cherokees*" who had alone composed the nation before that time three other classes of persons, making them all citizens of the nation alike, colored, liberated persons of specified classes, whites, by adoption, and Indians, by adoption. Of these the colored class and Indians settled east of 96° have *all* the rights of native Cherokees by operation of the nation's treaty. Other Indians by adoption and whites legally adopted are joined with the others named and made citizens by the constitution.

What then are the rights of Cherokee citizenship? I refer you to section 2, article 1, of the constitution. The lands of the nation are the common property of the nation. Who composed the nation? What other answer is possible to the question except the citizens of a nation compose the nation. The lands of this nation, therefore, being the common property of the nation, are the common property of whomever are made citizens by the constitution.

5th. Section 1 of the amendment to article 1 of the constitution (page 29, Compiled Laws) defines and describes what and where the lands are which the 2d section of same article makes the common property of citizens. These lands are those described by the treaty of 1833, between the United States and the Western Cherokees, which include the lands in question west of Arkansas, subject only to the modifications of the treaty of 1866.

At that time there was no modification of the nation's title by the settlement or "friendly Indians," and the whole described boundaries of the nation was the "*common property of the nation.*"

6th. If the lands of the nation were and are the common property of citizens, then no citizen can be deprived of his or her right and interest in the property without doing an injustice, and without a violation of the constitution which we are equally bound to observe and defend. While the lands remain common property, all citizens have an equal right to the use of it. When any of the land is sold under provisions of treaty, all citizens have an equal right to the proceeds of their joint property whether divided per capita or invested.

Senators, such is the treaty and such is the constitution. I have referred you to them, and stated their evident meaning in the premises "to the best of my ability," as is my duty. To the classes of citizens this bill would exclude attach "all the rights and privileges of citizenship according to the constitution." To three of these classes attach also all the rights of "*native Cherokees,*" according to treaty.

It may be said by some that the act of Congress making the appropriation authorizes you to direct the expenditure of the money as the council shall see proper. But the council will certainly not see proper to give to one citizen anything that belongs to another, contrary to the constitution, and the obligation of the council not to pass the law. I refer to section 14, page 15, Compiled Laws of the Cherokee Nation. Consistent with your primary obligations to observe treaty and defend the constitution, you are authorized to direct how this money shall be expended—not otherwise. It would be but mockery, if not worse, for any one to contend that Congress would or could absolve the officers of this government from their duties and their trust. Such a principle would be fatal to our government if once adopted in practice.

For the above reasons, I respectfully return the bill in question for your reconsideration.

Very respectfully,

D. W. BUSHYHEAD,
Principal Chief.

UNITED STATES INDIAN SERVICE, UNION AGENCY,
Muskogee, January 9, 1884.

SIR: I have the honor to transmit herewith petition of the Shawnee Indians who were, by agreement approved by the President of the United States January 9, 1869, made full citizens of the Cherokee Nation and "incorporated into and ever after remained a part of the Cherokee Nation, on equal terms in every respect, with all the privileges and immunities of *native citizens* of said Cherokee Nation."

The Shawnees have been paid their portion at each Cherokee per capita payment, as the agreement calls for, until the last, which by act of Cherokee council in May, 1883, was paid to Cherokees *by blood only*.

The only question involved is whether the Department will permit the Cherokees to violate their agreement made with the Shawnees, Delawares, and Freedmen or not.

If the Department takes no action in the matter, other violations of the agreement will surely follow, until these people will be compelled to remove from the Cherokee Nation. I respectfully recommend that prompt action be taken by the Department.

Very respectfully, your obedient servant,

JNO. Q. TUFTS,
United States Indian Agent.

Hon. H. PRICE,
Commissioner of Indian Affairs, Washington, D. C.

[Inclosure.]

WASHINGTON, D. C., *December 29, 1883.*

To the Hon. SECRETARY OF THE INTERIOR:

RESPECTED AND HONORED SIR: We, the undersigned memorialists of the Shawnees, late of Kansas, now citizens of the Cherokee Nation by virtue of an article of agreement made, concluded, and entered into by and between the Cherokee Nation and the Shawnee tribe of Indians, by their respective delegates, in the city of Washington, D. C., June 7, 1869, and approved by the then President of the United States June 9, 1869, pursuant to and in accordance with treaty stipulations existing between the United States and the Cherokee Nation. The fifteenth article of the treaty of July 19, 1866, provides "That 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, with all the rights of native Cherokees, and they shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect with native Cherokees."

The article of agreement above referred to provides: "And it is further agreed by the parties hereunto that in consideration of the said payments and acts agreed upon as hereinbefore stated that the said Cherokees will receive the said Shawnees into the country of the said Cherokees upon unoccupied lands east of 96°, and that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee Nation. * * *"

All nations accept acknowledged treaties the supreme law, so does the constitution of the Cherokee Nation. (See section 20, article 3, of the constitution, page 16, Compiled Laws of the Cherokee Nation.) "All acknowledged treaties shall be the supreme law of the land. * * *"

Section 5, page 31, Compiled Laws, declares "All native-born Cherokees, all Indians and whites legally members of this nation by adoption, and all freedmen * * * who reside within the limits of the Cherokee Nation, shall be taken and deemed as citizens of the Cherokee Nation. * * *"

By the said fifth article above, three classes of citizens are added to the former citizens composing the nation, without any distinction whatever between them.

Article 1, section 1, page 29, Compiled Laws: "The boundary of the Cherokee Nation shall be that described by the treaty of 1833 between the United States and the Western Cherokees. * * *"

Article 1, section 2, page 29, Compiled Laws: "The lands of the Cherokee Nation shall remain common property until the National Council shall request the survey and allotment of the same. * * *"

The specified conditions of the treaties herein referred to, and the constitution of the Cherokee Nation, have been fulfilled by the Shawnees; therefore the Shawnees are citizens of the Cherokee Nation, and entitled to an equal interest in and to the lands, and an equal interest in and to the funds accruing from the sale of any or all of said land, or otherwise accrued from the said lands belonging to said Cherokee Nation.

Notwithstanding the treaty and constitutional stipulations, the National Council in extra session convened passed an act in May, 1833, excluding the Shawnees from participating in the pro rata payment last summer, 1833, although they were enrolled and drew their pro rata share of the payments made in 1875 and 1880.

It is not the few dollars we did not get we care so much for, but our status in the said Cherokee Nation is what most concerns us. Having drawn a line of distinction once, if permitted, will they not again? Thus complicating matters and causing a feeling of distrust, dissatisfaction, and discouragement to arise and spread among the people, lessening their respect for law, destroying their confidence in the certainty of the administration of justice, and cause them to lose all respect for the law-making power of the country. Where, when, and how will the matter end if permitted to pass unnoticed?

We memorialized the National Council at the last session for such reparation to be made the Shawnees as they, in their wisdom, might deem prudent and best; thereby defining the status of the Shawnees. The memorial is herewith submitted to your honor, marked A.

The matter was brought before the Senate by the Principal Chief, Hon. D. W. Bushyhead, by special message accompanying our memorial, of date November 20, 1883, herewith submitted marked B; the Senate passed a resolution to refer the matter to a joint committee composed of members of both the Senate and Council.

The resolution was sent to the lower house, or Council, for its concurrence, but was rejected. It was again called up in the Senate and referred to the Committee on Foreign Relations. The committee reported favorably. (See their report herewith submitted, marked C.) Senate bill 34, entitled "An act defining the status of adopted citizens," was drafted, put upon its passage, but was rejected in the Senate, six members voting in the affirmative and twelve voting in the negative. (See certified copy of the vote on Senate bill No. 38 marked D, herewith submitted.)

Principal Chief Hon. D. W. Bushyhead, by special message presented the matter to the Senate again. It was referred to the Committee on Foreign Relations a second time. There was no further action taken in the premises, as we were informed by one of the committee. There being too large a majority opposed to the measure, they did not deem it advisable to report a second time. We were not surprised or disappointed in the result.

We have been advised to appeal to the courts of the nation for redress. The cause would be plead by Cherokee attorneys, adjudged by Cherokee judges. Would they not sustain and confirm the action of the National Council?

We were advised to apply to the Council, which we did, but did not accomplish anything.

Article 3, section 20, page 16, Compiled Law, the constitution reads: " * * * And the National Council shall have sole power of deciding on the construction of treaty stipulations."

The fifteenth article of the treaty of July 19, 1866, provides that friendly Indians complying with the provisions of said treaty "Shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect with native Cherokees." What is the meaning of the said fifteenth article? Is it that when so disposed they may divide with the Shawnees, as they did in 1875 and 1880, and then exclude them at their will and pleasure, as they did in 1833? Is that being "on equal terms in every respect with native Cherokees"?

Does the above quotation from their constitution authorize "the National Council" to change the plain, simple meaning of the fifteenth article of the treaty of 19th of July, 1866? or to change the word "shall" therein into the word may? We affirm no other construction can be put upon the words therein used, other than what they expressly mean in common usage, and by them is and was meant just what they declare, as therein used.

It may be claimed that we have no rights outside of that part of the Nation east of 96°. There is nothing expressed or implied in the treaty of 1866, or in our article of agreement, that we have no rights outside of that part of the Nation east of 96°.

But being "incorporated into and remaining" a part of the Cherokee "Nation, on equal terms in every respect with native Cherokees," must and does mean we are on equal footing with native Cherokees, whether "by Cherokee blood" or otherwise, in all things pertaining to or belonging to the said Cherokee Nation.

As helpless and dependent children look up to and depend upon a kind indulgent father for advice, assistance, and protection, we look to and appeal to you, our Great Father, at Washington, to vindicate our rights in and to the Cherokee Nation.

By giving attention at your earliest convenience to the matter, and giving us your

opinion thereon, you will place us under lasting obligations, and confer a great favor on your humble wards.

For your success and welfare your memorialists will ever pray.

Vinita, Cherokee Nation, Ind. Ter., December 29, 1883.

Most respectfully, yours,

Charles Tucker.
Henry F. A. Rogers.
Charles Bluejacket.
Thomas Dougherty.
C. C. Ironside.
Stephen Bluejacket.
William Barbee.
Thomas White.
Cyrus C. Cornatzer.
I. White, his + mark.
James Parey, his + mark.
David Blackfeather, his + mark.
George Dick, his + mark.
William Harvey.
W. Dougherty, his + mark.
I. Blackfeather, his + mark.

Jake Longail, his + mark.
S. M. Cornatzer.
Frank Dushane, his + mark.
Robert Harvey, his + mark.
S. A. Bluejacket.
W. G. Williams.
Henry Keyer, his + mark.
Henry Bluejacket, his + mark.
John Harvey, his + mark.
Thomas Bluejacket.
John Blackfeather, his + mark.
Obadiah Tiblow, his + mark.
Jonathan Gore.
Odon Parrish, his + mark.
Isaac Greenfeather, his + mark.

[Inclosure.]

To the honorable the Senate and Council of the Cherokee Nation in regular session convened :

GENTLEMEN: We, the undersigned memorialists, most respectfully represent to your honorable bodies that the late National Council, by passing an act drawing a line of distinction between the citizens of the Cherokee Nation, violated both the treaty stipulations and the constitution of the Cherokee Nation.

The fifteenth article of the treaty of July 19, 1866, between the United States and the Cherokee Nation, provides: "That 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, with all the rights of native Cherokees, and they shall be incorporated into and ever after remain a part of the Cherokee Nation on equal terms in every respect with native Cherokees."

We respectfully refer you to the article of agreement between the Cherokees and Shawnees concluded June 7, 1869, approved by the President June 9, 1869, pages 345, 346, 347, and 348, Compiled Laws: "And it is further agreed by the parties hereunto that in consideration of the said payment and acts agreed upon as herein stated, the said Cherokees will receive the said Shawnees into the country of the Cherokees upon unoccupied land east of 96°, and that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect and with all the privileges and immunities of native citizens of the Cherokee Nation * * *."

All nations accept acknowledged treaties the supreme law, and so does the constitution of the Cherokee Nation. (See constitution, page 16, Compiled Laws.) "All acknowledged treaties shall be the supreme law of the land * * *."

The exigencies of the late war made it necessary for the Cherokees to make a new treaty with the United States; in said treaty "certain things were agreed to * * * involving changes in the constitution of the Cherokee Nation * * *." The National Council adopted certain amendments to the constitution * * * and submitted the same to a general convention of the people * * * Tahlequah, on 26th day of November, A. D. 1866. (See Principal Chief's proclamation * * *, page 23 (if numbered), Compiled Laws.)

Page 33, Compiled Laws: "The names of the President of the Senate, the Speaker of the Council, and the Principal Chief" are signed to the amendments.

Page 34, Compiled Laws: A "Chief Justice of the Supreme Court was chosen president of the general convention * * * a secretary was chosen * * *." The proceedings ratifying the said amendments were signed by the president and secretary. Same page, compiled laws: The Principal Chief issued his "proclamation, declaring said amendments to be a part of the constitution of the Cherokee Nation, December 7, 1866."

The constitution accepts "acknowledged treaties * * * and is the legitimate offspring of treaty stipulations existing between the United States and the Cherokees.

Who are citizens of the Cherokee Nation?

Section 5, page 31: "All native-born Cherokees, all Indians and whites legally members of this nation by adoption, and all freedmen * * * who reside within

the limits of the Cherokee Nation, shall be taken and deemed to be citizens of the Cherokee Nation. (Compiled Laws.)

By this article of the constitution three classes of persons are added to the former citizens composing the nation, without any distinction whatever between them.

Article 1, section 1, page 29, Compiled Laws: "The boundary of the Cherokee Nation shall be that described by the treaty of 1833 between the United States and the Western Cherokees * * *."

Article 1, section 2, Compiled Laws: "The lands of the Cherokee Nation shall be common property * * *."

Please notice the last words, particularly their meaning. Common: Belonging to many equally. Belonging to the public, having no separate owner, serving for the use of all. A body of land which is not appropriated to an individual, but belongs to many. In law an open ground, or that soil the use of which belongs equally to the inhabitants of a country. To have a joint right with others in a common ground.

Property: The thing owned, that which a person or persons have a legal title to. (Webster.)

Therefore all citizens of the Cherokee Nation are equally entitled to lands of the Cherokee Nation, and equally entitled to the proceeds of said lands, from sales of or otherwise accrued, without any distinction whatever.

The Shawnees have been "incorporated into (united in the same political body of) the Cherokee Nation (a body of people united under the same government), with all the privileges and immunities of 'native' (original, not required, pertaining to the place of birth, synonymous with Cherokee by blood) citizens."

Residents in a country who have the right of exercising the elective franchise "of the Cherokee Nation."

The Shawnees have exercised the elective franchise not only without opposition, but by solicitation of "Cherokee citizens by blood."

They have been summoned for and served as jurors and witnesses in the courts of the Cherokee Nation.

Two Shawnees have been elected to the National Council of the Cherokee Nation.

Section 5, constitution, page 31, Compiled Laws, reads: "No person shall be entitled to a seat in the National Council but a male citizen of the Cherokee Nation. * * *"

All Shawnees legally residing within the limits of the Cherokee Nation, having fulfilled the specified conditions of existing treaty stipulations and the constitution, are citizens of the Cherokee Nation, equally entitled to the lands, and equally entitled to the proceeds arising from the sale of any or all of said lands or otherwise accrued therefrom.

The specified conditions of said treaties herein referred to and the constitutions have been fulfilled by the Shawnees.

Therefore, the Shawnees are citizens of the Cherokee Nation, and entitled to an equal interest in and to the lands of said nation, an equal interest in and to the funds arising from the sale of any or all of said lands belonging to said Cherokee Nation or otherwise accrued.

The spirit and letter of the treaties and constitution are violated by such a law as is herein complained of. Such acts complicate matters and cause a feeling of distrust to arise and spread among the people, lessening their respect for law, decreasing their confidence in the certainty of the administration of justice, and to lose all respect for the highest power—the law-making power of the nation.

Therefore, we most respectfully pray your honorable bodies to give the matter your attention at an early day, and that you take such action in the premises as to effectually prevent in the future the making of any law drawing a line of distinction between citizens of the Cherokee Nation, and make such reparation to the Shawnee citizens as you may deem in your wisdom prudent and best, thereby defining the status of the Shawnees in the future.

Gentlemen, the foregoing is written and submitted to your honors in the spirit of true friendship and good will, and we hope it will be received and acted upon in the same kind spirit.

Vinita, Cherokee Nation, November 12, 1883.

Most respectfully yours,

S. M. Cornatzer.
Joseph White.
Hiram Johnson.
Thomas White.
William Dougherty, his x mark.
James Bigknife, his x mark.
Richard Francis.
Jake White.
Amos Dick.

Joseph White, jr., his x mark.
William Greenfeather, his x mark.
James Perry, his x mark.
Charles Blackfeather, his x mark.
William Dougherty, his x mark.
Samuel Bread, his x mark.
Obadiah Tiblow.
Charles Tucker.
H. F. A. Rogers.

John Harvey, his x mark.
 George Carter, his x mark.
 John Fox, his x mark.
 James Flint, his x mark.
 Joseph Flint, his x mark.
 David Blackfeather, his x mark.
 L. L. Cornatzer.
 Simpson Rogers.
 Samuel L. Cornatzer.
 B. C. Chouteau.
 J. M. Tucker.

C. C. Ironside.
 C. Bluejacket.
 Jonathan Blackfeather, his x mark.
 A. J. Chouteau.
 J. L. Tucker.
 C. C. Cornatzer.
 R. Ironside.
 S. A. Bluejacket.
 Thomas Bluejacket.
 Stephen Bluejacket.
 Willis Bluejacket.

W. G. Williams.

[Inclosure B.]

EXECUTIVE DEPARTMENT, CHEROKEE NATION, INDIAN TERRITORY,
Talequah, November 20, 1883.

To the Honorable The National Council in regular session :

GENTLEMEN : According to request of a deputation of Shawnee citizens of this nation, I herewith transmit to your honorable bodies the inclosed memorial asking a formal definition of the status of such citizens, in view of the constitution of the nation and treaties, as to their right to the lands and the proceeds thereof.

Their application is founded upon the action of the National Council last May excluding them from a share in funds arising from the disposal of Cherokee lands west of the Arkansas River, and the answer will apply to all of the said lands and their value, as also to the status of the memorialists east of 96°. The subject is of the greatest importance in every light, and is fully set forth by the petitioners, on their side, in their memorial. I therefore submit it without further remarks for such action thereon as your honorable bodies shall deem to be required by the circumstances of the case.

Very respectfully,

D. W. BUSHYHEAD,
Principal Chief.

[Inclosure C.]

To the Honorable the National Council :

GENTLEMEN : Your committee to whom was referred the chief's message transmitting memorials of the Shawnee and colored citizens of the nation asking for a definition of their status in view of the constitution and treaties as to their rights to their lands and the proceeds thereof, respectively, beg leave to report, that having given the question that deliberation which under the circumstances we consider was due, we have the honor to report: It is true that the "patent" was made to the Cherokees by right of blood, and so continued to be vested until the exigencies of the late war arose, when, in 1866, it became necessary to make a new treaty with the Government. By this treaty other classes of persons were provided to be vested with all the rights of native Cherokees, upon specified conditions. These conditions have been fulfilled as regards the acknowledged colored, Delaware, and Shawnee citizens. Article 9 of the treaty of 1866 provides for the manner in which these colored shall obtain rights, while the first clause of article 15 of same treaty provides as regards Indians to be settled east of the 96th meridian. The language is, they shall have all the rights of native Cherokees and be incorporated into, and ever after remain a part of, the Cherokee Nation, on equal terms in every respect with native Cherokees.

The constitution makes acknowledged treaties the supreme law, and authorizes the National Council to construe treaty stipulations. Section 5, page 31, Compiled Laws, adds to "native-born Cherokees," who had alone composed the nation before the ratification of the several parts of the treaty by the people in convention as permanent amendments to our constitution, three other classes of persons, making them all citizens of the nation alike, colored, whites by adoption, and Indians by adoption. Section 2, article 1, of the constitution, makes the lands of the nation common property, while section 1 of the amendment to article 1 of the constitution defines what and where the lands are. These lands are those described by the treaty of 1833, which include the lands west of the Arkansas River, subject only to the modifications of the treaty of 1866.

We are therefore of the opinion that if the lands of (the) nation were and are the common property of citizens, then no citizen, whom by the operation of the treaties

and constitution are made citizens, can be legally deprived of his or her right and interest without doing an injustice and a violation of the constitution which we are bound to observe and defend. While the lands remain common property all classes of citizens, as defined by the constitution, have an equal right in it, and when any of the lands are sold, under provision of treaty, all citizens have an equal right to the proceeds whether divided per capita or invested.

In consideration, therefore, of the views as in the above and foregoing report, we have the honor to submit the accompanying bill.

C. V. ROGERS,
H. T. LANDRUM,
E. E. STARR,
Committee.

I hereby certify that the foregoing two and a half pages is the original report as made by the Committee on Foreign Relations.

JOHN S. DREW,
Clerk of the Senate.

[Inclosure D.]

SENATE BILL 38.

AN ACT defining the status of adopted citizens.

VOTE.

Affirmative.

S. H. BENGE.
C. O. FRYE.
H. T. LANDRUM.
C. V. ROGERS.
E. E. STARR.
JNO. SCRIMSHER.

Negative.

NED ACORN.
LACIE HAWKINS.
C. J. HARRIS.
ADAM LACIE.
JOHNSON ROBBINS.
JOE M. STARR.
SAM. WHITE.
FROG SIX KILLER.
A. L. WOODALL.
W. C. WOODALL.
ROACH YOUNG.
JESSE SANDERS.

I hereby certify that the above is a true record of the vote on Senate bill 38 entitled as above.

JOHN S. DREW,
Clerk of the Senate.

S. Ex. 86—3

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