

TERMS OF TREATIES HEREAFTER TO BE MADE WITH
CERTAIN TRIBES OF INDIANS.

[To accompany bill H. R. No. 210.]

APRIL 7, 1854.

Mr. ORR, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred House bill No. 210, defining the terms on which treaties shall hereafter be made with certain tribes of Indians, and for other purposes, report:

That they have given the bill that consideration which its novelty and importance merit, and have determined with unanimity to commend it to the favorable action of the House. There is much in the history of the aborigines of the western continent to challenge the investigation of the philosopher and to excite the warmest sympathy of the philanthropist. The rapid decay of this noble race of native Americans should arrest the attention of the statesman, and some policy be adopted to save the remnant of this once proud and powerful people from annihilation. It would be prompted by considerations of mere humanity; but when we recur to the first discovery of the New World by Columbus—an event which has exercised so potent an influence in the history of our race; when we remember the progress of its early settlement, and the kind hospitality our ancestors enjoyed in the rude wigwams of the red men of the forest, gratitude alone imperiously demands that we should now spare his posterity an extinction which our policy towards them is hastening with certainty. Your committee entertain a sanguine hope that the policy shadowed forth in the bill may stay that destruction which our former system is rapidly accomplishing.

It is proposed to extend it, as an experiment, to those tribes who have heretofore been removed from the States to west of the Mississippi, and who are now located in the projected Territories of Kansas and Nebraska, as also to the Osage and Kansas tribes, who are indigenous, but who have conveyed heretofore most of their lands to the United States, reserving only a small portion of their once extended possessions, on which they now reside.

If the experiment succeeds with the emigrated tribes, some of whom already have a partial knowledge of agriculture and the civilization of

the whites, it can be extended, as settlements progress westward, to the wild tribes who now have no experience in tilling the soil, and who rely exclusively upon the chase for the means of subsistence.

The present destitute condition of most of the emigrated tribes west of, and contiguous to, Missouri and Iowa, is a melancholy memorial of the sad failure of our misjudged efforts to civilize this fated race.

Enlightened philanthropy now suggests an abandonment of our former system, and the institution of a new one which will alienate the Indian from the precarious fortunes of the chase, and attach him to the more stable and happy pursuits of agriculture.

In their new homes they have been disappointed in the permanent and abundant supplies of game furnished by the forests and prairies of the West. When they removed far towards the setting sun, and abandoned the wigwams and graves of their fathers, we told them they would get beyond the reach of the vices, deceptions, and oppressions of bad white men, and that the Great Spirit they revered would bounteously supply them abundantly with the deer, elk, and buffalo. Their tastes and habits made them yield a willing ear to the stories which we told them of this promised land. Their hearts saddened, doubtless, when they turned and gazed for the last time on their native heath, and still they were cheered in the hope of a bright future, to be realized in the stillness of that wild to which they were treading their way.

The policy towards the Indians, when adopted, seemed wise and humane. Its authors never anticipated the rapid progress of the extension of our settlements and population westward. It was supposed the Mississippi would, for many long years, mark the western confines of this Union, and present a barrier to western expansion not to be overcome. Soon, however the illusion was dissipated; for the sturdy pioneer leaped the rolling flood of the "father of waters," and began to fell and conquer the forests on the western slopes of its great valleys. In a few brief years a tier of States was formed "over the waters;" and then it was confidently believed that the broad plains and prairies, mountains and valleys, westward to the Pacific, would only be trod by the wild beasts of the forest and his natural enemy, the red hunter. A few more years, however, demonstrates the impotency of the most sanguine imagination to fix limits to our march westward. The acquisition and settlement of California and Oregon has created the necessity of converting much of the Indian wilderness into a great highway and thoroughfare. Not less than seventy-five thousand of our citizens annually traverse the Indian country on their journeyings to and from the Pacific coast. The red man is no longer permitted to roam the wilderness free from the baleful presence of the hated pale-face. He sees the buffalo driven farther and farther from his lands, his lodges, and his wigwams. He finds that the annual slaughter of this noble animal for his own subsistence, that of the white caravans that dot and enliven the plains, and for the robes to supply the wants of civilized and savage life, amount to upwards of four hundred thousand.

Unforeseen circumstances, such as no human foresight could have

anticipated, have defeated the great object sought to be attained by the removal of these tribes. Want, we may justly say famine, is gripping at their heels. The rapid destruction of the buffalo is exhausting the only larder from whence they draw their support; the broad prairie yields them nothing but game, which is now taken only by labor, toil, and privation, and, when found, its quantity is so meagre as to rather tantalize than appease the dreadful gnawings of hunger.

Some of the tribes on the frontiers of Missouri, when they leave their lodges in the spring and fall to enter upon the precarious hunt for food, traverse several hundred miles of foodless desert before reaching their harvest-field—the herds of buffalo. Very soon they will cease to gather a harvest, for the buffalo will only be known in the natural history of a past age.

An increasing emigration and settlement along these great highways, and the large number of laborers and employées on the Pacific railroads, soon to be constructed, will destroy all the game supporting the Indian; and what will be his fate? If he should rob and murder to procure food, that his broken spirit and tortured body may be postponed a dissolution, should it excite surprise? And if justice required expiation for the crime, would not even a callous judge melt in tears of pity when gaunt famine pleads its justification for the deed?

When the buffalo is exhausted, the small game will feed them but a very brief season. Having neither breadstuffs nor vegetables, with nothing but meat to subsist upon, the ordinary demands of nature would not be appeased by less than from five to ten pounds per day. The deer is already growing scarce, and it cannot be depended on to subsist the Indians when the buffalo is gone.

It is idle, then, to look longer to the chase as a means of support for the Indian tribes. They are reduced to one of three alternatives—either to starve, plunder, or labor.

Humanity revolts at the prospect of perishing for food in a country where "old mother earth" so generously rewards the labor of the husbandman; but the second is violative of every social and moral duty, and its perpetration must bring ignominious punishment. The adoption, by his own free choice, of the last alternative should, if possible, be secured; and it is the solemn duty of Congress, by its legislation, to aid this consummation for the benefit of its wards, and thereby discharge its fiduciary trust to the Indians, now weak and powerless. It can only be done by giving to the red man an incentive to labor. Your committee are quite confident the result will be approximated by the passage of the bill under consideration. It suggests the general provisions of treaties to be hereafter negotiated with the Indians. Much of the mere detail of the plan is to be supplied in the stipulations of the treaties, and in such rules and regulations as may be adopted by the President of the United States to give the system efficiency. It contemplates the abrogation of their tribal existence, and gives to every member of the band an independent personal and political individuality, by changing the arbitrary will as law of chiefs and sachems for the laws of the United States and the protection to life and property which they afford. The council fires are extinguished, and appeals for

justice are addressed to the courts and legislatures rather than to the council-house. It gives him a permanent homestead, in quantity dependent on the number in the family, not to exceed in any event one section of land, by a higher and more stable title than mere occupancy. His "lodge" is converted into a dwelling, and becomes "his castle," protected from unlawful invasion. His affections and the affections of his children will entwine themselves around its enclosures, and the wild romance of a roving life will be dissipated. When he sees his little boys and girls growing up in that peaceful and happy home, it will stimulate him to industry. They must be fed and clothed and educated, and this will encourage his thrift and economy to meet these requirements of civilized life. His earnings will be measured by his own industry, and dispensed by his own volition. When he sows the seed he will feel assured that he will not be molested in reaping the harvest. Fierce cruelty and cold neglect will no longer be practised against his wife and his children. His kindness will cherish and his affections command them.

If sobriety and industry mark his conduct for a period of two years after entering upon and cultivating the homestead reserved to him by the bill, he is elevated in the scale of social and political being to the high privileges of a citizen of this great republic; and he will doubtless make a good citizen, meeting every obligation it imposes, whether it be in the camp or the cabinet. They are intellectually capable of high culture and civilization. The oratory of the unlettered savage has not unfrequently delighted educated ears, and the Indian blood has already marked its susceptibilities for intellectual superiority on many pages of our own history.

If he should, however, cling to his early habits, and refuse to obey the divine command to till the earth and earn his bread by the sweat of his brow, persist in wandering over the land and lead the life of a vagabond, the President is empowered to withhold his annuity arising from the sale of his land until he shall return to his home and resume the pursuits of industry. This power, your committee believe, will exercise a most salutary influence over the Indian in keeping him at home and engaged in industry.

But that feature in the system best adapted to the civilization of the Indian is the permanent settlement in their midst of a virtuous and moral white population. Our pioneers will seek homes on the virgin soil of the Indian country, carrying with them their families, thereby giving earnest of their purpose to demean themselves in a manner compatible with the high duties and obligations of citizens and Christians.

A white population of worth and integrity will occupy a large portion of the ceded soil in the midst of the Indians, to which they have hitherto been strangers. Heretofore the white race has generally been represented by vicious outlaws and desperate adventurers; and this association has degraded and debauched the poor Indian. The habits and appetites imparted to them by these adventurers, instead of elevating, has destroyed all the native virtues of the savage.

The bill will secure certainly the settlement of an industrious moral white population in the midst of the Indians; and their example will

incite the Indians to industry, the accumulation of property, and the acquisition of intelligence. They will learn skill in agriculture by having constantly in their vicinage practical farmers—when to sow and how to reap and garner; the uses of the plough, hoe, and spade, the scythe and sickle. Seeds and roots adapted to their soil and climate, and suitable to supply the wants of civilized life, will be introduced by their white neighbors; and the proper modes of rearing and caring for stocks of horses, cattle, and hogs, will be learned. The white man will erect school-houses and churches; and the Indian, when he learns the superiority of his white neighbor, in all the duties of life, from his superior intelligence and education, will become the patron of the school-house and the regular attendant of worship at the church. His traditions of the power and attributes of the Great Spirit will melt before the teachings of divine revelation; the Sabbath will be consecrated to the service of the Great Chief, and no more desecrated by the war-whoop or the sharp crack of the hunter's rifle.

This picture of their advanced and ameliorated condition, under the operation of the system they recommend, your committee believe is not overdrawn; and if it is true, philanthropy and humanity would be supremely elated at the happy change. To strew the pathway of life of half a million of human beings with prosperity and happiness, where it is now illuminated only by the baleful lights of poverty, ignorance, destitution, and threatened extinction, is a benevolence worthy of the exalted intellect and the benignant heart.

Your committee are not discouraged at the signal failure of all former efforts to civilize and domesticate these "children of the forest." They were founded in error; first, in paying them money annuities, which debauched them by furnishing them the means of gratifying their appetites; and, secondly, through the Indian intercourse act, casting, by its operation, on them a lawless class of white men.

An earnest desire to protect the Indian induced Congress at an early day (in 1802) to pass an act regulating trade and intercourse with the Indians. It prohibited all white persons from entering the Indian country, except such traders as might be licensed by the Indian agents. The agencies were extended over a vast amount of territory, and the agents could not, if they had been so inclined, always execute the law and drive off intruders. Its practical operation has been to keep out of the Indian country good men, and to introduce into it men whose vices and crimes expelled them from decent society. The licentiousness, vice, disease, and death, that have stalked with merciless strides through all their wigwams, found their germ in this most unfortunate and misjudged act. Good men have respected the law, and kept out of the Indian country; while bad men disregarded it, and entered upon their territory. There are honorable exceptions to this rule; but the mass of white men, who have renounced the society of their peers to make their haunts in the Indian country, in violation of all law, have been drawn from the very dregs of society. These men are responsible for most of the murders and robberies and wars which the Indians have made. These men have learned the poor savages all the *vices* of our race and none of its *virtues*.

If the system your committee recommend should be adopted, a class of white men will go into the Indian country for whose virtue we need not be ashamed, and for whose morality we need not blush. They will elevate the aspirations of the Indian; and that this diffusion may be general, and every vestige of their tribal associations and proclivities obliterated, it is provided that not more than six families shall make coterminous locations. This will insure a white neighbor near every Indian settlement.

There is one feature in the bill to which the attention of the House is specially invited. It is proposed to remunerate the emigrated tribes for the cession of their lands, by allowing them the entire net proceeds of the sale, when disposed of by the government. This compensation is more liberal than we have usually made, though it is not without precedent, as in the case of the Chickasaws and Black River Chippewas; but there are considerations not to be overlooked, demanding a generous and liberal policy towards the emigrated tribes, some of whom have already, at our solicitation and for very inadequate compensation, removed more than once. The lands they now occupy are guaranteed to them in the most solemn and imposing form. If we ask them to modify the contract, they should be approached with none other than a just and liberal offer. The great interests of this republic require a modification of the terms on which they hold their lands. The safe and comfortable emigration of our citizens to and from the Pacific coast would be greatly promoted, if the Indian country was opened and settlements made along the various routes. At least one hundred thousand persons, annually, will hereafter traverse the routes; and much suffering of man and beast would be averted, if settlements were made at convenient intervals, and such crops raised as were needed to supply these caravans. The prospect of one or more railroads to the Pacific renders it necessary that the title shall be extinguished, that the right of way may be given to such companies as enter upon the contracts for their construction; and while the work is progressing, and when completed, the laws of the United States must be extended over the whole line. Crimes must be punished, which can now only be done, when committed in the Indian country, by removing the criminal to an organized State. Contracts must be respected and enforced. To do all this, territorial governments must be organized, courts established, and officers appointed. The whites can no longer be kept out of the Indian country; the plains and prairies to the Rocky mountains have nearly ceased to echo the lowing of the buffalo; the crack of the emigrant's whip, the merry jest and joyous laugh of the Caucasian man, now ring through the vast wilderness. Where there is so much of human life and property, law and government is a necessity which we must respect.

Congress must extend our laws so as to meet the governments on the Pacific, not only to subserve the convenience of our citizens, but to protect great national interests. It is a national necessity that requires us to assume the jurisdiction which the right of eminent domain entitles us to. In exercising it, we should scrupulously abstain from doing injustice to the emigrated tribes, who are entitled to the right of occupancy by treaties and conventions still in force.

The accompanying table, [at the end of the report,] prepared at the Indian Office, shows the different tribes effected by the bill, the country from whence they emigrated, their numbers, the quantity of land now held, the title by which held, the dates of treaties, and the annuities they receive.

The recommendation of your committee to give these tribes the net proceeds of the sales of the lands, when disposed of by the United States to purchasers, will be fully justified when the nature of their present title is explained, as we propose, by making short extracts from various treaties made with them, and also from the statutes of the United States.

The territory conveyed by the United States to the Sacs and Foxes was "for a permanent home;" to the Kickapoos "as their permanent place of residence as long as they may remain a tribe;" and to the same tribe, in a subsequent treaty, it was stipulated that the land they now occupy should be "assigned, conveyed, and forever secured by the United States to the said Kickapoo tribe as their permanent residence," &c.; to the Delawares, the land "should be conveyed and forever secured by the United States to the Delaware nation as their permanent residence, and the United States hereby pledges the faith of the government to guaranty to the said Delaware nation forever the possession, &c., against the claims and assaults of all and every people whatever;" to the Shawnees, Ottowas, Quapaws, and Senecas and Shawnees, it was agreed to "grant by patent, in fee simple, to them and their heirs forever, as long as they shall exist," &c.; and to the Peorias and Kaskaskias, the United States "cedes, &c., land forever, or as long as they may live upon it as a tribe."

The treaties from which these extracts are made are consistent with the legislation of Congress. On the 28th of May, 1830, Congress passed an act directory to the President of the United States, indicating the wish of the legislative department of the government as to the terms and conditions on which treaties should be made with the Indians for exchanging lands. The third section declares, "that in making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guaranty to them and their heirs or successors the country so exchanged with them, and, if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided, always,* That such lands shall revert to the United States if the Indians become extinct or abandon the same."

The title for perpetual occupancy is clear and indefeasible; and as there is a national necessity, growing out of our trans-montaine and Pacific acquisitions, to again ask our red brethren to modify existing stipulations to suit the exigencies of the case, would it be just or generous to acquire their lands for an inadequate consideration, and speculate in their sale upon the ignorance, the fear, or the weakness of these poor Indians?

Your committee would not concede to a small number of savage men, white or red, the right of appropriating absolutely a vast terri-

torial area, that they may live by the chase or upon the spontaneous productions of the earth rather than by labor, when such lands might be required for the plough of the husbandman, or when the safety or convenience of an adjacent civilized State required that it should be subdued and brought into cultivation. The civilization of the white is vastly superior to the civilization of the red man; it is productive of more social happiness, and is better adapted to intellectual progress. Hence, when the expansion of our population has required additional territory, the government has acted wisely in appropriating it—generally by purchase, and for a reasonable consideration, if the value of the lands acquired is measured by the usufruct it bore the Indians. The guarantees we have given these emigrated tribes, the plighted faith of the nation to them in laws and treaties, render it imperative on the government to obtain their consent before it appropriates their land; and that consent should not be given by the Indians unless the government agrees to pay them all it may receive for the lands, deducting only the expenses incident to its disposition. The bill meets the justice of the case. The money is to be paid, from time to time, as the sales progress, and distributed to individuals in such proportions as each treaty may respectively stipulate. Each tribe will have one or more agents for making payments and supervising generally their affairs. If any Indian is by him considered incompetent to manage prudently the sums to be paid him, it will be the duty of the agent to report the fact to the President, who is authorized to commute cash payments for payments in clothing, provisions, &c.; which articles are made inalienable to any white person under penalties which will secure the observance of this provision. The President may also authorize the money thus due to be expended in the clearing and fencing of lands and the erection of buildings. Those who are competent to manage for themselves receive the payments in cash, and may disburse it at their own option. Every Indian will be secured a permanent home and the comforts and pleasures it bears. It will give him individuality, self-respect; elevate his aspirations and enlarge his affections. His moral and intellectual nature will be changed; his erratic tastes will be swallowed up in the blandishments of a permanent home, and his love of excitement, for war, and the chase will be satiated in the acquisition of wealth and knowledge.

Individual right to property, with the privilege of enjoying, granting, and bequeathing it, is the great effective stimulant to industry; without it, our civilization would not have reached higher than the barbarous rudeness of savage life.

The Indian has no conception of title to land in severalty; it is his while he occupies it. He has no well-defined security for the rights of person or property; the weak have no shield between oppression and the strong. This makes the red man idle; he is not so naturally; his temperament is active and his motion quick. Throw around him the protection of the white man's laws, and he will rise not more highly in our appreciation of him than in his appreciation of himself. When his property is despoiled, give him a court to appeal to, instead of the war-club; let him feel that his person is secure, and that his home is

“his castle;” convince him by kindness that the white man is his friend, and that all the race are not treacherous, and the Indian will be a far nobler specimen of humanity than his former developments would indicate. Give him the rights of citizenship, when he proves himself to be capable of their exercise by industry and good deportment, and you will have converted the rude savage into the exemplary citizen: in war, to rally under the stars and stripes; in peace, to develop the country; and when his posterity shall speak of the white man, let your public acts be so just and liberal to the ancestor, that they will bless you with benedictions rather than curse you with imprecations.

Your committee recommend the passage of the bill, with the accompanying amendments.

Statement of the numbers, position, territory, &c., of certain tribes of Indians and Missouri; prepared from the best

No.	Names of the tribes.	Population of each tribe.	Former residences of the tribes not indigenous to their present country.	Locality and boundaries of present residence.
.....	.....	1, 300	Indigenous	Bounded N. by Eau-qui-court river, E. by Missouri, S. by the Platte, and W. by longitude 98° west.
.....	.....	4, 500	.... do.....	North by Platte, east by Omahas..
.....	.....	1, 000	.... do.....	North by Platte, east by Missouri, south by Little Nemaha.
.....	.....	250	.... do.....	North of Little Nemaha, east by Missouri, south by Great Nemaha, west by line.
.....	.....	437	North of Missouri, and between that State & the Missouri river.	North by Great Nemaha, south by Sacs and Foxes of Missouri.
1	Sacs and Foxes of Missouri.	200	Do.... do.....	North of Kickapoos.....
2	Kickapoos	475	Illinois and Missouri..	North and east of Delawares.....
3	Delawares	1, 132	Ohio, Indiana, and Missouri.	South of Kansas river, east by Missouri.
4	Pottawatomies	4, 300	Illinois, Indiana, Iowa, Michigan, Ohio, and Wisconsin.	On Kansas river, west of Shawnees and Delawares.
5	Wyandots	553	Ohio and Michigan...	Southeast corner of Delaware territory.
6	Shawnees	931	Ohio and Missouri....	South of Kansas river, east by Missouri State line.
7	Weas and Piankeshaws.	251	Indiana, Missouri, Illinois, and Ohio.	North by Shawnees, east by Missouri State line.
8	Peorias and Kaskaskias.	255	Illinois, Indiana, and Missouri.	West of Weas and Piankeshaws..
9	Ottowas	247	Ohio	North by Shawnees, east by Peorias, west by Sacs and Foxes.
10	Sacs and Foxes of Mississippi.	2, 173	Iowa and Illinois.....	North by Shawnees, east by Ottowas.
11	Swan Creek & Black River Chippewas.	30	Michigan.....	Between Ottowas and Sacs and Foxes.
12	Kansas	1, 375	Missouri and Arkansas	Headwaters of Neosho, about Council Grove.
13	Miamies	250	Indiana.....	North by Weas and Piankeshaws, east by Missouri State line.
14	Osages	4, 941	Missouri and Arkansas	South by Cherokees, east by Cherokee new trail ground.
15	Quapaws	314	Arkansas and Louisiana.	East by Missouri line, north by Cherokee new trail ground.
16	Senecas & Shawnees, (Lewistown.)	290	Ohio	North by Quapaws.....
17	Senecas, (Sandusky.)	177	Ohio	North by Senecas and Shawnees..
..	.....	17, 530	Georgia, Alabama, Tennessee, and N. Carolina.	North by Osages and Still Plains, south by Creeks, east by Missouri line, and Quapaws, Senecas, and Shawnees.

* Approximate quantity.

† And outlet.

‡ Exclusive of the tract of 800,000

south of the Missouri river and west of the boundaries of the States of Iowa data in the possession of the Indian Office.

Area of reservation.		Share of land to each Indian, in acres.	Character of title.	Date of treaty.	Where treaty may be found.	Current annuities and provisions, 1853.
In square miles.	In acres.					
7,000*	4,480,000	4,148	Indian title ...	Oct. 15, 1836	Statutes at Large, vol. 7, p. 524.	\$1,440 00
20,000*	12,800,000	2,844	..... do.....	Oct. 9, 1833	Statutes at Large, vol. 7, p. 449.	1,000 00
5,000*	3,200,000	3,555	..... do.....	Sept. 21, 1833	Statutes at Large, vol. 7, p. 429.	2,000 00
250*	160,000	640	Treaty in perpetuity.	July 15, 1830	Statutes at Large, vol. 7, p. 330.	.....
200	128,000	159	..... do.....	Sept. 17, 1836	Statutes at Large, vol. 7, p. 511.	7,875 00
200	128,000	1,000	..... do.....	..... do.....	.....	7,870 00
1,200	768,000	1,489	..... do.....	Oct. 24, Nov. 26, 1832.	.....	.....
1,300†	832,000	691	..... do.....	Sept. 24, 1829	.....	10,144 00
900	576,000	134	Purchase of U. States.	June 5 and 17, 1846.	.....	80,180 00
37 $\frac{7}{16}$	23,960	41	Purchase from Delawares.	Dec. 14, 1843	.....	23,935 00
2,656 $\frac{1}{2}$	1,700,000	1,336	Treaty in perpetuity.	Nov. 7, 1825	.....	4,120 00
250	160,000	640	..... do.....	Aug. 8, 1831	.....	3,800 00
150	96,000	1,200	..... do.....	Oct. 29, 1832	.....	.....
53 $\frac{1}{2}$	34,000	151	Patent	Oct. 27, 1832	.....	.....
680	435,200	163	Patent	Aug. 30, 1831	.....	475 04
13	8,320	252	Treaty in perpetuity.	Oct. 11, 1842	.....	73,880 00
400	256,000	186	Treaty	May 9, 1836	.....	293 48
781 $\frac{1}{4}$	500,000	2,000	Indian title....	Jan. 14, 1846	.....	10,000 00
8,000	5,120,000	1,122	Treaty in perpetuity.	Nov. 28, 1840	.....	42,580 00
150	96,000	305	..... do.....	June 2, 1825	.....	25,456 00
46 $\frac{1}{2}$	30,000	103	Patent	May 13, 1833	.....	2,660 00
151 $\frac{1}{2}$	97,200	549	Treaty in perpetuity.	July 20, 1831	.....	2,827 06
8,040†	5,145,000	293	Patent	Feb. 26, 1831	.....	250 00
			..... do.....	Dec. 29, 1832	.....	.....
				Aug. 6, 1846	.....	.....

acres lying north of the Quapaws, between Osage country and Missouri State line.