

TREATY WITH THE CHEROKEE NATION.

L E T T E R

FROM THE

ACTING SECRETARY OF THE INTERIOR,

RELATIVE TO

The sixteenth article of the treaty of 19th July, 1866, with the Cherokee Nation of Indians.

APRIL 17, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 11, 1872.

SIR: By the sixteenth article of the treaty of July 19, 1866, between the United States and the Cherokee Nation of Indians, it is provided that friendly Indians may be settled in any part of the Cherokee country, west of the 96th meridian, west longitude. (Stat. at Large, vol. 14, page 804.)

The act of Congress, approved July 15, 1870, made it the duty of the President to remove the Great and Little Osage Indians to lands provided, or to be provided, for them in the Indian Territory; said lands to be paid for out of the proceeds of the sale of their lands in Kansas. (Stat. at Large, vol. 16, page 362.)

In accordance with the act of Congress and treaty referred to, and by the concurrent action of the Department and the Cherokee Nation, the Osages were removed to a reservation selected for them in the Indian Territory, believed to be, at the date of removal, east of the 96th meridian, where substantial and valuable improvements have been made by them.

A recent survey establishes the 96th meridian, a distance of three and a half miles west upon its supposed location upon the ground, and the most valuable improvements made by the Osages now lie east of said meridian.

I have the honor to transmit, herewith, a copy of a report dated the 1st instant, addressed to this Department by the Commissioner of Indian Affairs, and accompanying papers, in relation to this subject. I respectfully recommend, for the consideration of Congress, the accompanying paper, marked B, being a draught of "An act to confirm to the Great and Little Osage Indians a reservation in the Indian Territory."

Inasmuch as the location of the Great and Little Osages upon their present reservation was made without the concurrence of the Cherokee

Indians, and, in fact, as their delegation allege, in opposition to their protest, it is highly important that this subject receive early attention.

Very respectfully, your obedient servant,

B. R. COWEN,
Acting Secretary.

Hon. JAMES G. BLAINE,
Speaker House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., April 1, 1872.

SIR: I have the honor to acknowledge the receipt of your communication of the 20th ultimo, transmitting the report and accompanying papers presented to the Department by Thomas Wistar and George Howland, jr., who were appointed commissioners to arrange certain difficulties between the Cherokee and Osage Indians, growing out of the change of the line of the 96th meridian.

In compliance with your instructions to state my views and suggestions thereon, I respectfully report as follows, viz:

It being the policy of the Government to remove from the State of Kansas, so far as possible, Indian tribes residing therein, the Great and Little Osages were, in accordance with section 12 of the Indian appropriation act, approved July 15, 1870, (Stat. at Large, vol. 16, p. 362,) induced to dispose of their lands in that State and remove to the Indian Territory, where a suitable reservation in compact form, equal to 160 acres for each member of the tribe, was to be provided for them west of the 96th meridian, the United States having the right to settle friendly Indians thereon, as provided in the Cherokee treaty of July 19, 1866. (Stat. at Large, vol. 14, p. 799.)

A preliminary survey was made in order to determine, as nearly as was at that time practicable, the line of the 96th meridian, and the Osages thereupon selected and removed to a tract adjoining and immediately west of the supposed line, believed to be 60 miles in length from north to south, and 14.58½ miles from east to west, and to contain 560,000 acres. Recently the official survey of the line of the 96th meridian has been made, and is shown to be about 3½ miles to the west, and the length of the tract assigned to the Osages to be but 59 miles 68.53 chains, thereby throwing a part of the Osage lands, with most of their valuable improvements, east of the 96th meridian, and reducing the quantity of land embraced in said tract to 536,934 acres. To remedy the embarrassment caused by this discovery, Messrs. Wistar and Howland were designated by the Department as commissioners to arrange with the Cherokee authorities for the purpose of securing, if practicable, their assent to the Osages remaining on that portion of their lands thrown east of the 96th meridian by the survey; otherwise to select a new reservation for them, and full instructions were given said commissioners to that end by this office, under date of November 4, 1871.

From the report of said commissioners now submitted, it appears that the Osages have agreed to take, in lieu of the lands first assigned them in the Cherokee country, the whole of the tract lying between the 96th meridian "and the main channel of the Arkansas River, with the south line of the State of Kansas for a northern boundary, and the North Creek line and the main channel of the Arkansas River for a southern and western boundary," the price to be fixed by the President.

It is also stipulated in said agreement that the Department shall appoint three appraisers to appraise the value of the Osage improvements now east of the 96th meridian, the aggregate amount of said improvements to be deducted from the amount to be paid the Cherokees for the lands.

It is further stipulated that the Osages agree to admit the Kansas or Kaw tribe of Indians upon their lands, and that if they cannot agree upon a location for the latter, or the price to be paid for the lands to be sold to the Kaws, the President shall determine the matter.

Such is the arrangement proposed to be adopted to obviate the difficulties created by the original false determination of the 96th meridian, as respects the home which the Government is bound to provide for the Osages in the Indian country. It would be wholly within the competence of the Department to approve this arrangement and carry it into execution without resort to Congress, but for the fact that the tract which is thus proposed to be set apart for the Osages is in excess of 160 acres to each member of the tribe, even when increased by the accession of the Kaws.

The tract above described is estimated to contain 1,700,000 acres, being 1,140,000 acres in excess of the amount to which the Osages are entitled to receive under the Cherokee treaty of 1866, and the twelfth section of the Indian appropriation bill, approved July 15, 1870. The Kansas, or Kaws, numbered 627 at their last census. Allowing 160 acres to each of them would appropriate an additional amount of about 100,000 acres, leaving over 1,000,000 acres unappropriated at the rate of 160 acres to each individual.

The importance of speedily securing a permanent settlement for the Osages in the Indian country is very manifest and urgent. The question whether it shall be done by confirming them in their occupation of the reserve originally meted out for them, in spite of the new determination of the line of the 96th meridian, on the ground that the identical tract was in contemplation of the Osages, the Cherokees, and the United States, and that the line of the 96th meridian was only taken as descriptive, it being the intention of all parties to the several agreements affecting this tract that the eastern boundary thereof should be the line then known and accepted as the line of the 96th meridian; or whether the specific arrangement proposed, and understood to have been effected with the Osages for their establishment in the Indian country shall be regarded as having failed through the new determination of the line of the 96th meridian, and a new reservation be thereupon set apart for them in accordance with the twelfth section of the act of June 15, 1870, or under authority to be derived from new legislation, is a question upon which I have the honor to ask the decision of the Department. I am strongly disposed to hold that the Osages should not be disturbed in their occupation of the tract originally assigned to them, but that they should be regarded as having rights therein superior to those claimed by the Cherokees. In this view I submit herewith the draught of a bill marked A, to confirm the Osages in their present location.

Should, however, the Department decide that the Osages cannot be maintained on the reservation originally designated for them, it would then become expedient to consider whether the agreement between the Osages and the commissioner on the part of the United States, which forms the subject of this communication, shall be confirmed by the Department, or, in the absence of sufficient authority, be referred to Congress.

The nature and terms of the agreement have been insufficiently expressed and explained. The Osages having given their assent, it only remains to inquire—

1. Is it expedient for the United States?
2. Is it just to the Cherokees?

On the first point the single consideration is, whether the Government can afford to give up to the occupation of the united tribes of the Great and Little Osages and the Kaws, numbering in all about 4,000, so large a tract as that described in the agreement under consideration? It is not a question of giving the land to the Indians. The Osages expect to pay for it, and are able to pay for it, and funds belonging to the Osages to far more than the amount required for such payment are now held by the Government in trust for the tribe.

By the Cherokee treaty of 1866 the United States acquired the right to settle friendly Indians upon a tract of country embracing about 8,500,000 acres. The present agreement would give up to the exclusive occupation of some 4,000 Indians one-fifth of this tract. Without apprehending that there will be any considerable difficulty in obtaining future further cessions of territory from tribes within the Indian country as the Government shall desire, it would still be my belief that it was decidedly injudicious to exceed in any case the amount contemplated in that treaty, viz, 160 acres to each member of a friendly tribe so settled upon the ceded lands, were it not that the Osages have suffered great hardship and wrong in the country from which they came, and have now encountered a grievous disappointment in their expected home in the Indian country, solely through the failure of the Government to properly determine their location. If the injuries which the Osages have suffered in the past, their disappointment now, through the fault of the Government, and the manifest and urgent importance of adjusting the difficulty without delay, are held to constitute a sufficient reason for allowing these Indians to purchase more land than was contemplated in the treaty of 1866, I know of no reason why this agreement should not be pronounced to be expedient so far as the United States is concerned and either confirmed by the Department, or, in case it is held that the Department is precluded from assigning more than 160 acres to each member of the tribe, submitted to Congress for its action.

2. Are the conditions of the agreement just to the Cherokees?

In this connection I beg to call the attention of the Department to a communication (copy inclosed) from the Cherokee delegation now in this city, in which said delegation, under date of the 26th instant, enter their objections, on the part of their people, to the proposed agreement. As the points made by the Cherokee delegates are briefly stated, I give them in full immediately following:

“1. According to the provisions of the sixteenth article of the treaty of 1866 between the United States and the Cherokee Nation, the price of the lands west of 96° west longitude, if practicable, was first to be agreed upon between the Cherokees and the Indians to be settled upon them; but if they should not agree, then the price to be fixed by the President.

“2. The lands ceded to friendly Indians under said article, by the Cherokee Nation, was to be conveyed to them in fee simple, and their protection in the enjoyment of them should not be made dependent upon so vague a condition as an ‘endeavor’ on their part to ‘occupy and improve’ them. This provision, to be found in the fifth article of the agreement, appears to us to be unprecedented, and not less dangerous to the rights of the Osages than to those of the Cherokees. While it may be viewed on the one hand as an inducement to the Osages to set-

tle down and improve their country, on the other it holds out a very dangerous temptation for intrusion upon them by the whites.

"3. The commissioners and the Osages in their agreement had no authority to bind the Cherokee Nation for the payment for improvements which they had no instrumentality in making, and which was done solely through the error of the agents of the Government of material taken from the domain of the Cherokee Nation in a section of country where timber was scarce and valuable to her own citizens."

Upon the foregoing I remark—

1. The treaty of 1866, in its sixteenth article, certainly contemplates that an attempt shall be made to obtain an agreement between the Cherokees and each and every tribe of Indians to be settled upon the lands west of 96th meridian, as to the price to be paid the Cherokees for such lands; and that only after the failure of such attempted agreement shall the price be fixed by the President.

I submit, however, whether, if it be clearly shown that the Cherokees have no substantial interest in such a negotiation, but that it is a matter of mere punctilio, any arrangement between the United States and the Osages which is in a high degree important should be defeated or deferred on this account.

As regards the advantage, possibly resulting to the Cherokees from the contemplated negotiation with the Osages for the price of the ceded lands, I would only call the attention of the Secretary to the protracted efforts toward an agreement between the Osages and the Cherokees relative to the lands originally set apart for the latter tribe, by far the greater portion of which lands are embraced in the proposed new reservation; which efforts resulted uniformly in the total disagreement between the parties, and developed the fact, certainly to the entire satisfaction of this office, that it is not practicable to contract with the Cherokees for lands west of 96th meridian at any reasonable price. In the case of former negotiations it became necessary for the President to fix the price for the Osage lands as provided in the last resort by the treaty of 1866, and I see not the slightest reason to believe that negotiations in the present instance would find any other result. I conclude, therefore, that the first objection urged by the Cherokee delegation presents no substantial interests of the Cherokees adverse to the plan submitted by Commissioners Wistar and Howland.

2. The second point made in the communication of the Cherokee delegation is bad, both in substance and form. The phrase in the fifth article of the agreement with the Osages, to which the delegation object, viz, "endeavor to improve and occupy the aforesaid lands," is mere recital. It is not necessary in the agreement, nor is it objectionable in itself. It can no way affect the tenure of the Osages, which must be governed by the treaty and the law.

3. The third point made by the Cherokee delegation deserves consideration.

On the one hand, it may be urged that the authority vested in the President, in the last resort, to fix the price of the lands, fairly involves the right to determine the value of improvements made by the Osages on the lands to be retained by the Cherokees as offset. On the other hand, it may not unreasonably be claimed by the Cherokees that the improvements of the Osages will be of comparatively slight value to their nation or to members of it, and that they should be allowed to say for themselves whether they will or will not use and pay for the improvements which the Osages have made upon the lands they are, by the terms of this agreement, to retain.

Should the Department decide that it is expedient to carry into effect the agreement between Commissioners Wistar and Howland and the Osages, and that the Department is not authorized to set apart for any tribe of Indians any portion of the lands ceded by the Cherokee treaty of 1866 in excess of 160 acres to each member of such tribe, a bill similar in form to the inclosed draught (marked B) would, in the opinion of this office, provide adequate authority of law for the proposed new location of the Osages.

I beg, without further expression of the views of this office upon the law or the equity of the case, to submit the several points raised herein for the decision and action of the Department.

Very respectfully, your obedient servant,

F. A. WALKER,
Commissioner.

Hon. SECRETARY OF THE INTERIOR.

B.

AN ACT to confirm to the Great and Little Osage Indians a reservation in the Indian Territory.

Whereas by the treaty of 1866, between the United States and the Cherokee Nation of Indians, said nation ceded to the United States all its lands west of the ninety-sixth meridian, west longitude, for the settlement of friendly Indians thereon; and whereas by act of Congress, approved July 15, 1870, the President was authorized and directed to remove the Great and Little Osage Indians to a location in the Cherokee country west of the ninety sixth meridian, to be designated for them by the United States authorities; and whereas it was provided by the same act of Congress that the lands of the Osages, in Kansas, should be sold by the United States, and so much of the proceeds thereof as were necessary should be appropriated for the payment to the Cherokees for the lands set apart for the said Osages west of the ninety-sixth meridian; and whereas under the provisions of the above-mentioned treaty and act of Congress, and by the concurrent action of the authorities of the United States and the Cherokee Nation, the said Osages were removed from their former homes, in the State of Kansas, to a reservation set apart for them in the Indian Territory, at the time of the removal supposed to be west of the said ninety-sixth meridian, and bounded on the east thereby, and upon which said Osages have made substantial and valuable improvements; and whereas by a recent survey and establishment of the ninety-sixth meridian it appears that the most valuable portion of said Osage reservation, and upon which all their improvements are situated, lies east of said meridian; and whereas it therefore became necessary to select other lands in lieu of those found east of the established ninety-sixth meridian, for said Osage Indians; and whereas a tract has accordingly been selected, lying between the western boundary of the reservation heretofore set apart for said Indians, and the main channel of the Arkansas River for a northern boundary, and the north line of the Creek country and the main channel of the Arkansas River for a southern and western boundary; and whereas the act of Congress, approved July 15, 1870, restricts the reservation for said Osage Indians to "a tract of land in compact form equal in quantity to one hundred and sixty acres for each member of said tribe;" and whereas in a letter of the Cherokee delegation, addressed

to the Secretary of the Interior, on the 8th day of April, 1872, in behalf of the Cherokee Nation, contained their approval of, and assent to, the proposition to provide for the settlement of the Osage and Kaw Indians on that portion of the Cherokee country lying west of ninety-sixth degree west longitude, south of Kansas, east and north of the Arkansas River: Therefore,

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide said Osage tribe of Indians with a reservation, and secure to them a sufficient quantity of land suitable for cultivation, the following described tract of country west of the established ninety-sixth meridian in the Indian Territory be, and the same is hereby, set apart for and confirmed as their reservation, viz: Bounded on the east by the ninety-sixth meridian; on the south and west by the north line of the Creek country, and the main channel of the Arkansas River; and on the north by the south line of the State of Kansas: *Provided,* That the location as aforesaid shall be made under the provisions of article sixteenth of the treaty of 1866, so far as the same may be applicable thereto.

WASHINGTON, *Thirdmonth* 20, 1872.

To the Hon. SECRETARY OF THE INTERIOR :

The undersigned, duly appointed commissioners to arrange certain difficulties between the Cherokee and Osage tribes of Indians, growing out of the change of the 96th meridian, respectfully report that in pursuance of the object of their appointment, (a copy of our instructions is herewith transmitted,) two of their number proceeded as far as Lawrence, Kansas, when the senior member became so seriously ill that he was unable to continue the journey. After waiting four days for his colleague, who was still unable to resume his journey, the remaining one, in company with Isaac T. Gibson, the Osage agent, set off for the encampment of the Osages on Pond Creek, some one hundred and fifty miles beyond the end of the railroad at Coffeyville, being joined on the way by Mahlon Stubbs, the agent for the Kaws, who were to be included in the reservation to be arranged for.

On arriving at Pond Creek, where a portion of the tribe was encamped, it was found that most of the principal men were some fifty miles away, on the hunt. On the following morning the governor dispatched a runner to notify the chiefs and headmen that the commissioner had arrived, and to invite them to meet him at the encampment as soon as practicable. This occupied four or five days. They, however, responded to the call, and on the 16th of secondmonth (February) we met in council in one of their lodges, when a formal invitation was tendered them to meet the commissioners with the remainder of the tribe at the agency on the Little Verdigris River; this being accomplished we retraced our steps, reaching the agency on the evening of the 21st. On the evening of the 28th, the commissioner who had been left sick at Lawrence, and who had so far recovered his health as to be able to travel, reached the agency in company with Superintendent Hoag.

The chiefs and headmen who had been invited to come in from their hunting-grounds began to arrive on the following day, and on the 1st day of thirdmonth (March) we met a large number of the chief men of the tribe at the agency, when we stated to them the purpose for which we had come, and laid before them for their consideration two propositions, which, together with the addresses on both sides, the agreement

entered into with them, (a duplicate of which was left with them,) and a communication from them to us, are presented herewith, and form a part of our report.

In conclusion, we would say we were favored to transact all our business with our red brethren in perfect harmony and good feeling, and can but hope and trust that our labors on their behalf will not have been in vain.

With hearts full of gratitude toward our Father in heaven for his mercies toward us, in protecting us from dangers seen and unseen, we subscribe ourselves,

THOMAS WISTAR,
GEO. HOWLAND, JR.,
United States Commissioners.

Articles of agreement entered into at the Osage agency, Indian Territory, on this 5th day of thirdmonth, A. D. 1872, between the United States on the one part, represented by Thomas Wistar and George Howland, jr., duly appointed commissioners, and the Osage Indians on the other part, represented by their governor, Joseph Paw-ne-nosh and Neo-po-walla, chief of the Little Osages, and other chiefs and headmen of the tribe, whose names are hereto attached.

PREAMBLE.

Whereas the Osage tribe of Indians, in the State of Kansas, did place with the United States, in trust for sale, their lands in the State of Kansas, according to the provisions of an act of Congress, approved July 15, 1870, agreeing to remove to a new home in the Indian Territory, consisting of a tract of land equal in quantity to one hundred and sixty acres for each member of said tribe; the price per acre not to exceed the price paid, or to be paid, by the United States for the same.

And whereas said Indians did remove to the Indian Territory in the fall of 1870, and settle on a tract of land provided for them, consisting of 560,000 acres, and the same was priced by the President at 50 cents per acre.

And whereas upon a resurvey by the United States Government of their eastern boundary, to wit, the 96° longitude, said boundary being proved to have been incorrectly located, and said resurvey having deprived said Indians of the larger portion of their tillable lands, and the greater portion of the improvements made since their removal to said tract, the said contracting parties agree as follows:

ARTICLE I. That in lieu of the strip of land lying east of the established meridian line of 96° west longitude, being a portion of the tract transferred to the Osage tribe of Indians, in accordance with a treaty concluded July 19, 1866, between the United States and the Cherokee Nation, the whole of the tract lying between the western boundary of the aforesaid grant and the main channel of the Arkansas River, with the south line of the State of Kansas for a northern boundary, and the north Creek line and the main channel of the Arkansas River for a southern and western boundary, be ceded and transferred to the Osage tribe of Indians, and confirmed to them by the proper authorities at Washington, and that the price of said land be fixed by the President of the United States.

ARTICLE II. The Osage tribe of Indians accept the proposition contained in Article I.

ARTICLE III. That the proper authorities at Washington appoint the superintendent of Indian affairs of the central superintendency, J. B. Jones, agent for the Cherokees, and Isaac T. Gibson, agent for the Osages, or substitutes appointed by either of them in case of their inability to discharge that duty, to appraise the value of the improvements made by the Osages on the strip of land between the ninety-sixth meridian as formerly surveyed and the more recent one, the aggregate amount of said appraisal to be deducted from the amount to be paid to the Cherokee Nation for the previously-described reservation; the appraisers also to value the improvements made by any Cherokees who may be located on said reservation west of the established line of 96°, said aggregate to be added to the amount to be paid to the Cherokees: *Provided*, in both cases, such improvements shall not have been sold at the time of appraisal.

ARTICLE IV. The Kansas or Kaw tribe of Indians, now in the State of Kansas, shall have the right to settle on the tract of land above described and ceded to the Osage tribe of Indians; and in case the Osage and Kansas tribes of Indians cannot agree upon their respective locations, or upon the price to be paid for the lands ceded to the Kansas Indians, the President of the United States shall determine these matters for them.

ARTICLE V. Provided the Osages endeavor to occupy and improve the aforesaid lands, the United States Government agrees to protect them from intruders, and to foster and encourage them in their efforts.

ARTICLE VI. The aforesaid agreement to take effect upon its approval by the Secretary of the Interior.

THOMAS WISTAR,
GEO. HOWLAND, JR.,
United States Commissioners.

JOSEPH PAH-NE-NO-POSH,
Governor.

CLAMMORE, his x mark,
Chief of Clanmore Band.

TALLY, his x mark,
Second Clanmore Band.

HENRY, his x mark,
Brave.

O-TAH-SAH-IN-KA, his x mark,
Brave.

TA-WAU-GE-HE, his x mark,
Chief, Big Hill Band.

NE-CAH-WAH-SHE-TON-CAH, his x mark,
Little Chief.

CON-SAH-GAH-SHE, his x mark,
Counselor.

NE-CO-CON-SE, his x mark,
Brave.

WAH-SHE-PE-SHE, his x mark,
Marshal.

DRUM, his x mark,
Brave.

KE-NE-KAH, his x mark,
Brave.

AR-SHE-CAH-LE, his x mark,	<i>Brave.</i>
CHE-SHO-WAH-TI-ANCAH, his x mark,	<i>Chief, White Hair Band.</i>
CA-HE-CAH-WAH-TI-AN-CAH, his x mark,	<i>Second Chief, White Hair Band.</i>
HARD ROPE, his x mark,	<i>Counselor, White Hair Band.</i>
HAH-SCO-NE-SAHE, his x mark,	<i>Counselor, White Hair Band.</i>
SE-SO-GLA-TIA, his x mark,	<i>Brave.</i>
SHO-ME-CAH-SE, his x mark,	<i>Brave.</i>
GEORGE BEAVER, his x mark,	<i>Chief, Beaver Band.</i>
SHO-ME-CAH-SE, his x mark,	<i>Brave.</i>
CAH-HE-CAH-STATZ, his x mark,	<i>Little Chief.</i>
WOSTER BIGHEART, his x mark,	<i>Little Chief.</i>
HARD CHIEF, his x mark,	<i>Little Chief.</i>
LONG POLE, his x mark,	<i>Brave.</i>
BELVIZE, his x mark,	<i>Counselor.</i>
TOBY MONGRAIN, his x mark,	<i>Little Chief.</i>
WHITE HORN, his x mark,	<i>Little Chief.</i>
COH-SHETSE-NE-KAH, his x mark,	<i>Brave.</i>
MOH-SHE-POH-HOH, his x mark,	<i>Brave.</i>
MEH-TAH-WAH-TI-AN-KAH, his x mark,	<i>Brave.</i>
JOHN BUFFALO, his x mark,	<i>Brave.</i>
WAH-CON-TAH-KO-KAH, his x mark,	<i>Brave.</i>
WAH-KAH-KI-TI-CAH, his x mark,	<i>Brave.</i>
NO-PA-WAL-LA, his x mark,	<i>Chief, Little Osages.</i>
YOUNG STRIKEAXE, his x mark,	<i>Second Chief, Little Osages.</i>
CHI-TO-PAH, his x mark,	<i>Counselor.</i>
WY-A-HOH-KA, his x mark,	<i>Little Chief.</i>
CHE-WAI-TEA, his x mark,	<i>Little Chief.</i>
LITTLE CHIEF, his x mark,	<i>Little Chief.</i>

WAH-HO-PAH-SHIN-CAH, his x mark,
Little Chief.
 MOH-SHA-KO-SHE, his x mark,
Brave.
 HES-KA-MOH-E, his x mark,
Brave.
 E-PE-SON-SA, his x mark,
Brave.
 SAH-PAH-SHIN-CAH, his x mark,
Brave.
 SAMUEL BEVENUE, his x mark,
Second Chief, Half-Breed.
 FRANK MARSHALL,
Counselor, Half-Breed.
 AUGUSTUS,
Captain Counselor, Half-Breed.
 JAMES BIGHEART,
Brave, Half-Breed.
 PETER C. BIGHEART,
Brave, Half-Breed.
 T. L. ROGERS,
Brave, Half-Breed.

Signed in the presence of—

ISAAC T. GIBSON,
United States Indian Agent.

ALEXANDER BEYETT,
United States Interpreter.

JOHN H. STUART,
Secretary to Commissioners.

WASHINGTON, D. C., March 26, 1872.

SIR: We have the honor to acknowledge the receipt of your communication of yesterday, transmitting copies of the report of Messrs. Wistar and Howland, special United States commissioners to adjust the difficulty growing out of the improper location of Osage Indians by their agents, upon Cherokee lands, and of the agreement entered into by them with said Osages, providing for them a new reservation, in part. One object in soliciting a copy of that agreement previous to your reporting upon it was respectfully to call your attention to the following points involved in the arrangement:

1. According to the provisions of the XVIth article of the treaty of 1866, between the United States and the Cherokee Nation, the price of the lands west of 96° west longitude, if practicable, was first to be agreed upon between the Cherokees and the Indians to be settled upon them; but, "if they should not agree, the price was to be fixed by the President."

2. The lands ceded to friendly Indians under said article, by the Cherokee Nation, was to be conveyed to them in fee simple, and their protection in the enjoyment of them should not be dependent upon so vague a condition as an endeavor on their part to "occupy and improve" them. This provision, to be found in the Vth article of the agreement, appears to us to be unprecedented, and not less dangerous to the rights of the Osages than to those of the Cherokees. While it may be viewed

on the one hand as an inducement to the Osages to settle down and improve their country, on the other it holds out a very dangerous temptation for intrusion upon them by the whites.

3. The commissioners and Osages, in their agreement, had no authority to bind the Cherokee Nation for the payment for improvements which they had no instrumentality in making, and which was done solely through the error of the agents of the Government, of material taken from the domain of the Cherokee Nation, in a section of country where timber was scarce and valuable to her own citizens.

We respectfully ask, therefore, your consideration of these points of objection to said agreement, believing, as we do, that the interests of the Cherokee Nation are quite as much involved in the premises as are those of the Osages.

We have the honor to be, very respectfully, your obedient servants,
 WILL P. ROSS,
 W. P. ADAIR,
 C. N. VANN,
Cherokee Delegation.

Hon. F. A. WALKER,
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
 Washington, D. C., April 8, 1872.

SIR: The undersigned, on behalf of the Cherokee Nation, hereby respectfully state that the language of the bill marked B, and read to them on the 6th instant, providing for the settlement of the Osage and Kaw Indians on that portion of the Cherokee country lying west of 96 degrees longitude, south of Kansas, east of the Arkansas River, and north of said river and of the northern boundary of the Creek country, will be acceptable to them, by adding to, or embracing in, said bill a statement of the fact that it is drawn in accordance with their approval and consent.

We have the honor to be, very respectfully, your obedient servants,
 WILL P. ROSS.
 W. P. ADAIR.
 C. N. VANN.

Hon. COLUMBUS DELANO,
Secretary of the Interior.