

IN SENATE OF THE UNITED STATES.

FEBRUARY 19, 1847.

Submitted, and ordered to be printed.

Mr. BAGBY made the following

REPORT :

*The Committee on Indian Affairs, to whom were referred sundry petitions and memorials from citizens of New York, and others, praying that the Tonawanda band of the Seneca tribe of Indians may be exempted from the operation of the treaty of the 20th May, 1842, report :*

That the object of the petitioners is to permit the Tonawanda band of Indians to remain on the lands on which they now reside, notwithstanding the provisions and stipulations of the treaty of the 20th of May, 1842.

The pre-emption right to the land referred to in the various petitions and memorials referred to the committee was in the State of Massachusetts, and Massachusetts assigned her interest to Thomas L. Ogden and Joseph Fellows. To this treaty of the 20th May, 1842, there appear, from the face of the treaty, to have been four parties: the United States, acting through her commissioner; the Seneca nation or tribe, acting through their chiefs and headmen; the State of Massachusetts, acting through her commissioner; and Ogden and Fellows, assignees under the State of Massachusetts. The object of this treaty seems to have been to settle finally all the questions of difficulty among the several parties to it, and to carry out and consummate the various contracts and treaty stipulations in regard to the lands in question, and from which the memorialists pray that the Tonawandas may not be removed. The treaty has been ratified and published; and the main question submitted to the committee, and now to the Senate, is, whether it is competent for the government of the United States to annul the provisions of a treaty upon the application of one of the parties to it, or without the concurrence and approbation of all the parties. The committee are clearly of opinion that it is not, and that the treaty can only be dissolved by and with consent of all the parties to it. It is said that none of the chiefs of the Tonawanda band ever signed the treaty, and that it was a fraud upon them; and that fraud vitiates the treaty, and renders it void *ab initio*.

The committee have no means of knowing to what extent, or whether at all, the Tonawandas were represented in the treaty of 1842. But, in substance, the same evidence was before the Senate when the treaty was ratified, that is now offered and relied upon to exempt the Tonawanda band from its operation. With the substance of this evidence before them,

the Senate ratified the treaty; and the committee are of opinion that upon the allegation of fraud or of misrepresentation, or of non-representation, to annul or set aside an Indian treaty would not only tend strongly to unsettle the whole of our Indian policy, but would open a field of interminable difficulty, embarrassment, and expense. They therefore recommend the adoption of the following resolution :

*Resolved*, That the prayer of the petitioners ought not to be granted.

*Memorial of chiefs of the Tonawanda band of Seneca Indians.*

To the Hon. JOHN TYLER, *President of the United States* :

The undersigned, being head chiefs of the Tonawanda reservation, feeling ourselves aggrieved with the proceedings and decisions of the late treaty with the Seneca nation, think proper to give you a history of the proceedings, hoping that you will investigate the subject, and aid us at Tonawanda to retain our native land, which is so dear to us.

Last winter we sent a delegation to Washington for the purpose of presenting the subject of the pretended treaty with the Senecas before the Houses for their consideration. When they arrived at New York, the Society of Friends were holding their annual meeting at that place, and on learning the business of our delegation, they requested them to return home; told them the reason they wished them to return was, they (the Friends) had an intercourse with government on the subject of the treaty, and feared that if they (the delegation) should go to Washington, it would prove injurious to their breaking up the treaty. The Seneca nation had furnished their delegates with all their papers relative to the treaty, and gave them orders to carry them to Washington themselves, and present them before the Houses. The delegates were unwilling to return, when requested, on that account. But the Quakers told them they would take the papers and present them to Congress, and wished the delegates to return home and inform the chiefs, and keep the thing secret for one month. In that time they thought the subject of the treaty would be settled. The next we heard of the subject, we received a letter from the Quakers, requesting the Seneca nation to send a delegation of two or three chiefs from each reservation, to meet them in council at Farmington. We complied with their request, and our delegates met them in council. The Friends addressed them, and said, "Brothers, we have met in council, agreeable to appointment," and said that one of the Friends from Baltimore would read a paper which he had from the Secretary of War office, and he read it; and stated that the Quakers had arranged it so that the Indians might know beforehand what the Secretary of War would do; he also said the Ogden Company had a difficulty with the Seneca Indians for three years, and they would negotiate a treaty with them, and restore to the Indians Cattaraugus and Allegany reservations, and retain the Buffalo and Tonawanda reservations. He told us that the two hundred and two thousand dollars was to be paid to us for the two reservations, Buffalo and Tonawanda; one hundred and two thousand dollars for the improved lands; and one hundred thousand dollars for the unimproved lands. If the Seneca nation would not agree to the proposed treaty then, the Ogden Company would do it at any other time. He also stated to our delegates that the Secretary of War would send a commissioner to hold a

general council with the Seneca nation, and that the object the Friends had in calling the council was, that the Indians might be prepared for the commissioner. He further said that the Friends did not want to advise them, but merely to read the compromised treaty. The delegates that went from Tonawanda arose and stated that the proposed treaty had been explained to them, and if the commissioner should come the chiefs would not agree to any such treaty; they were determined to remain on their land: it being the place where they were born, they were unwilling to leave it; and they would say the same when the Secretary came. The chiefs had sent a number of letters to Washington, stating that they were willing to give up all the land which belonged to the emigration party, but theirs they would keep. We were then told by the Friends that the Secretary of War would send a man to hold a council with us. But the first we knew they came themselves, and appointed a day to meet the Seneca nation in council on the Buffalo reservation. We met them, agreeably to appointment. One of the Friends arose and addressed the council, stating that they had come for the purpose of explaining the compromised treaty. That in this treaty the Ogden Company was to restore to the Senecas the Cattaraugus and Allegany reservations; and all that resided on the Tonawanda and Buffalo reservations should emigrate to the two remaining reservations. This was all that the Quakers could do for us. After the Friends had read the proposed treaty, Israel Jamieson, of Cattaraugus, arose and said that he was opposed to the treaty, and should hold his land. The subject of the treaty was discussed for quite a length of time—some in favor of it, and some opposed to the treaty. The Seneca chiefs concluded that as they had no voice in the framing of the treaty, they would propose alterations and amendments, which should be sent to the Secretary of War. They proposed to give up a part of each reservation, reserving to each native that wished to remain twenty acres of land; and, through the influence of G. M. Cooper, consented, if government would not comply with our request, to give our signatures to the proposed treaty, without alteration. We did not understand the subject as it was; had we, we should not have given our consent. Council adjourned to the 16th of May, at Buffalo reservation. The Secretary of War was to be notified to meet us at the same time. Council met, agreeably to adjournment, on the 16th May, at Buffalo reservation. Present, Ambrose Spencer, agent of the Secretary of War; superintendent from Massachusetts; one from New York, and the Ogden Company. Council opened by Mr. Spencer stating that the Indians had sent a letter to the Secretary of War for the purpose of negotiating a treaty with the Seneca nation, and he was sent by government for that purpose. The commissioner from Massachusetts arose and remarked, that if the proposed compromised treaty did not suit them, (the Indians,) they might make such alterations as would satisfy them; that he was sent by the government of Massachusetts to see that the Indians had justice done to them, and not to advise them to sign the treaty, or not sign. Judge Spencer said that his opinion corresponded with what had been said by the commissioner from Massachusetts. Judge Spencer stated to the council that they must keep all interested white people out, because there were so many that came for the purpose of gain, under the pretension of aiding them in breaking up the old treaty. The council was adjourned, and time given for the private consultation of the Indians upon the treaty. After they (the commissioners) had retired, we were informed

that the Ogden Company and Friends commenced conversation with Mr. Spencer, and Mr. Hoar, from Massachusetts, the company saying they were opposed to what they had remarked in council to the Indians relative to their altering the treaty. The commissioners returned to the council, Mr. Spencer said they had heard there was some misunderstanding in the remarks they had made, and wished to explain them. The explanation was different from what they had said first. The Friends then said that the commissioners from Massachusetts and New York had no authority to alter the treaty. And on the 20th of May Judge Spencer put the question, that all those who were in favor of accepting the compromised treaty should make it manifest by rising. The majority was in favor of and signed the compromised treaty, but none from Tonawanda would accept it. Mr. Spencer assumed the office of chairman of the Seneca nation, which was contrary to the wishes of many of the chiefs. There are about forty of the chiefs of the Seneca nation who *did not* sign the late treaty.

We have given a statement of a few of the difficulties with which we are surrounded. Our rights are as dear to us as the white man's, and all we ask is to enjoy them the few remaining days we have to spend in this world, and not to be driven from place to place, but that we may die where our fathers died, and be buried with them. May the Great Spirit direct you in aiding us in this our persecuted and afflicted situation. We wish you to write to us on the receipt of this, and let us know what you will do for us, or what can be done. Direct your communication to East Pembroke.

Your brothers, head chiefs of Tonawanda,

JIMMY JOHNSON, his x mark.  
 JOHN BLACKSMITH, his x mark.  
 JOHN LUKE, his x mark.  
 BLUE SKY, his x mark.  
 JESSE TAFFANY, his x mark.  
 ELY S. PARKER.

TONAWANDA, June 1, 1842.

---

*Petition of citizens of Alabama, Genesee county, New York.*

TO THE SENATE OF THE UNITED STATES :

The undersigned, citizens of Alabama, Genesee county, in the State of New York, humbly represent that we believe great injustice is about to be done to the Tonawanda band of the Seneca Indians, by the execution of the treaty of 1842. We believe that treaty to be invalid, for the following among other reasons :

Almost every signature was obtained on the assurance that if it were not signed, the treaty of 1838, driving them from all their lands, would be immediately executed. The company then knew, and now acknowledge, that that treaty could not be legally enforced. Less than two hundred Indians on all the reservations, could be found willing to sell, and the chiefs who signed the treaty did so not to part with, but as far as possible to save their homes. If they had known their rights as they now do, not twenty signatures could have been obtained.



Of the Tonawanda band, not one chief ever signed either treaty, nor could a single Indian be induced to consent to departure. The treaty gives them for their lands but one-tenth of their value, and nothing for one of the finest water privileges in the State. They have no place to go to except the Indian territory; and of two hundred who went there from Cattaraugus last spring, over eighty died within four months, from the unhealthiness of the climate. They are a moral, industrious, honest people, rapidly improving in their condition, possessing good farms, and are strongly attached to the homes of their fathers. The people of the State of New York do not desire their removal, and have no sympathy with their spoilers.

In view of these facts, we humbly and earnestly petition your honorable body to except the Tonawanda band of Indians from the execution of the treaty of 1842.

R. B. Warren

H. Pettibone, jr.

Wm. G. Morse

Thomas W. Allis

Jeremiah Horning

Abiatha W. Green

H. H. Stage

John M. Warren

Chester Miller

George C. Alexander

Samuel Piper

Curtis Barnes

William Carr

Wyatt W. Goodrich

H. H. Hatheway

Jacob K. Bartlett

O. S. Hathaway

Joseph Webster

N. A. Ensworth

W. R. Hopkins

Samuel Winchel

James Matteson

Guy B. Shepard

A. B. Palmer

Allen Rice

Eleazer Bernis

E. B. Ingalsbe

Selah Vosburgh

Levi Ingalsbe

Charles Adams

James B. Chambers

Shubel Frankliu

Walter Rider

Peter Coon

Lorenzo Clark.

*Petition of the Tonawanda band of Seneca Indians.*

To the honorable the SENATE OF THE UNITED STATES:

The petition of the Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That in further illustration of the facts set forth in a petition presented to the President of the United States, our Great Father, the guardian of his wards, the petitioners, and to your most honorable body, and sent to your honorable body, accompanied by a message relating thereto from our Great Father the President, are the following:

That we hold our reserved lands separately and in severalty as a distinct band of the Senecas. That as such we have unanimously protested against the sale of our reservation to the Ogden Land Company, or any persons; and more particularly did we protest, solemnly protest, against the treaties of January 15th, 1838, and May 20th, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties. That said treaties were made without any of our participation whatever, we being their constant and strenuous opposers; and that no single chief or individual of our band ever approved of them, or

executed them, or entered into any contract, or agreement, or sale, under them. That no chief, warrior, or individual of our band ever at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of our reserved lands, or received a cent for the same from them, or ever made an agreement or treaty of any kind with them.

That the said treaties were made in pursuance of a resolution of your honorable body of June 11th, 1838, under which we, as a distinct band of the Senecas, were to be assenting parties to make them valid and operative upon us; which provision has not been complied with, we having never assented to or acquiesced in them.

It has also been represented to your honorable body, that since the ratification of these treaties a large number of settlers have attached rights, and that in consequence the United States should not reconsider the treaties under which they claim. To this we answer that we are not to blame. Since we are not parties to the vile and iniquitous treaties under which they claim, we ask, what law founded in justice, and what moral principle, can alienate our just rights of title to our lands and homes? We beg that the Senate of the United States may not deprive us, by their action, of the last heritage left us by our fathers, who received it at the hands of the Great Spirit, merely because a few persons may have squatted on our lands. We assert that they are squatting, for they profess to have no title to the lands; but they are paid by the Ogden Land Company to thus settle upon our lands and disturb the public peace. They have settled under our repeated prohibitions and remonstrances. There continues to be the strongest disposition on the part of the Ogden Land Company to steal into the possession of our lands, thus virtually robbing us of our sacred rights, which we pray the Senate, who have the power, may not allow.

We would again urge upon the Senate to consider, that if we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of a large number of Senecas from the Buffalo Creek reservation. Much of the land at Cattaraugus is poor and hilly, and not capable of sustaining many families. The Allegany reservation is much poorer in proportion than the Cattaraugus, and there is not a sufficiency of good and fertile soil there to support more families than are already settled there. To these facts the Senecas residing upon those reservations will testify, if appealed to. The United States have become aware, also, of the trouble and difficulties ensuing from the condensed state of the Indians at Cattaraugus, and we pray that the Senate will not compel us to remove to a land where constant trouble, misery, and starvation would be our lot. We believe that it would not only be a great injustice, but a great outrage upon our rights, should the United States enforce these treaties, being, as they are, infected with the vilest deception, fraud, and bribery. When we remember that of the number who emigrated under these treaties to the western country last summer more than sixty have already died, and the few who survive are almost daily returning to the homes of their relatives in this State, we again say that the treaties of January 15th, 1838, and May 20th, 1842, are most ruinous and destructive in their operation, and should not be enforced upon us if the principles of justice are to be followed, and if, as we have been repeatedly told, the policy of the government is beneficent, generous, and humane. The United States cannot have failed to perceive that the operation of those treaties, so far as they extend, has been attended with the most ruinous effects. We fore-

saw all these consequences, and hence we would not participate in any of the treaties, or implicate ourselves in any way by becoming parties to them. We prefer our present homes. With the ruinous operation of these treaties, and the sad fate of our brothers who were compelled to remove under their contracts, before our eyes, we cling with a stronger tenacity to our ancient homes, formerly guaranteed to us by the United States by treaty covenants. They covenanted never to disturb us in the peaceable enjoyment of our reservation, and that they would never claim the same until we should voluntarily agree to sell. We complain now that we are disturbed in our homes and upon our lands by your citizens, and that our lands are claimed by citizens of the United States, although we have never voluntarily agreed to convey our title to our reserved lands to any person or persons.

Therefore, your petitioners most earnestly and respectfully pray that your honorable body, taking into full and solemn consideration the facts herein set forth, will exercise your power of revision and construction to the above treaties, being, as you are, a part of the treaty-making power of these United States, and so revise and act upon those treaties as you may think fit, and as the immutable principles of justice and equity require, giving to your petitioners an immediate relief from their most unjust and ruinous operation, and establishing us in the permanent and peaceable possession of our lands forever. We have seen with regret the unstable and wavering course of the United States towards us, and for many years the non performance of treaty covenants; and we now ask, that, our petition being granted, the chain of friendship may be renewed and brightened again, thus establishing and strengthening your beneficent policy towards the Indian race.

And your petitioners, as in duty bound, will ever pray, &c.

#### *Chiefs.*

Jimmy Johnson, his x mark.  
 John Blacksmith, his x mark.  
 Blue Sky, his x mark.  
 Jesse Tiffany, his x mark.  
 Isaac Shanks, his x mark.  
 John Sky, his x mark.  
 Lewis Poodry, his x mark.  
 Samuel Parker, his x mark.  
 Win Washington, his x mark.  
 John Bigfire, his x mark.  
 Jesse Spring.  
 Daniel Spring.  
 Richard Cooper.  
 James Williams, his x mark.  
 George Sky, his x mark.  
 Lewis Kennedy, his x mark.  
 Benjamin Jonas.

#### *Warriors.*

David Printup, his x mark.  
 Henry Bigfire, his x mark.

Joseph Taylor, his x mark.  
 George Moses, his x mark.  
 John Griffin, his x mark.  
 Dennis Sky, his x mark.  
 Johnny John, his x mark.  
 Gee-ta-no, his x mark.  
 Daniel Carpenter, his x mark.  
 Young Hiram, his x mark.  
 William Kennedy, sr., his x mark.  
 William Kennedy, jr., his x mark.  
 William James, his x mark.  
 Lewis Hotbread, his x mark.  
 Daniel Fish, his x mark.  
 John Johnny John, his x mark.  
 Daniel Peter, his x mark.  
 Henry Peter, his x mark.  
 Henry Hill, his x mark.  
 Billy Stewart, his x mark.  
 James Stewart, his x mark.  
 Joseph Jemison, his x mark.  
 William Jemison, his x mark.  
 Henry Jemison, his x mark.  
 Tommy Jemison, his x mark.  
 Tommy White, his x mark.

- Lewis White, his x mark.  
 Isaac Johnson, his x mark.  
 Squire M. Jonas, his x mark.  
 Bill Snyder, his x mark.  
 William Clute, his x mark.  
 George Clute, his x mark.  
 Cornelius Jimmy, his x mark.  
 Martin Spring, his x mark.  
 Ephraim Thomas, his x mark.  
 Levi Moses, his x mark.  
 Judson Moses, his x mark.  
 Peter Beaver, his x mark.  
 John Beaver, his x mark.  
 Ha-gwe-yais, his x mark.  
 Gen-de-o-queh, his x mark.  
 Ha-na-to-da-go, his x mark.  
 John Possum, his x mark.  
 John Jack, his x mark.  
 William Jack, his x mark.  
 Allen Kennedy, his x mark.  
 Gilson Suyder, his x mark.  
 William Snyder, his x mark.  
 William Bigfire, his x mark.  
 Da-ga-sa-gars-ta, his x mark.  
 Samuel Taylor, his x mark.  
 John Moses, his x mark.  
 Ho-ha-teh, his x mark.  
 Squire Brooks, his x mark.  
 Isaac Doxtator.  
 Samuel Parker.  
 James Ganoscrang, his x mark.  
 John Hatch, his x mark.  
 Henry Moses, his x mark.  
 William Moses, his x mark.  
 Isaac Doctor, his x mark.  
 William Jimmy, his x mark.  
 William Parker, his x mark.  
 John Shanks, his x mark.  
 Hiram Tommy, his x mark.  
 James Reuben, his x mark.  
 Harrison Printup, his x mark.  
 George Shanks, his x mark.  
 Erastus Printup, his x mark.  
 Alexander Printup, his x mark.  
 Henry Snow, his x mark.  
 Charles Snow, his x mark.  
 William Taylor, jr., his x mark.  
 John Blackchief, his x mark.  
 William Moses, jr., his x mark.  
 Charles Doctor, his x mark.  
 Jacob Doctor, his x mark.  
 John Lone, his x mark.  
 Chauncey Lone, his x mark.  
 Oak-ta-go, his x mark.  
 Go-an-je-daro, his x mark.  
 Henry Carpenter, his x mark.  
 John William, his x mark.  
 George Elkinton, his x mark.  
 Jacob Shongo, his x mark.  
 James Sundown, his x mark.  
 William Shongo, his x mark.  
 William Clute, jr., his x mark.  
 William Fish, his x mark.  
 George Reuben, his x mark.  
 Levi Reuben, his x mark.  
 John Reuben, his x mark.  
 Tommy Hill, his x mark.  
 John Hill, his x mark.  
 John Miller, his x mark.  
 William Sundown, his x mark.  
 Joseph Miller, his x mark.  
 James Johnson, his x mark.  
 Henry Johnson, his x mark.  
 John Infant, his x mark.  
 John Brooks.  
 David Poodry.  
 John P. Poodry.  
 Edward Poodry, his x mark.  
 George Cooper, his x mark.  
 Adolphus Cooper, his x mark.  
 Charles Cooper, his x mark.  
 Abram Moses, his x mark.  
 John Big Tree, his x mark.  
 John Farmer, his x mark.  
 Andrew John, his x mark.  
 Alexander Abrams, his x mark.  
 Ga-go-oh, his x mark.  
 Joshua Ganoscrang, his x mark.  
 De-ya-go, his x mark.  
 Harrison Sundown, his x mark.  
 Git-gwa-eh, his x mark.  
 John Jones, his x mark.  
 Eton Sky, his x mark.  
 James Tommy, his x mark.  
 Amos Snyder, his x mark.  
 Henry Snyder, his x mark.  
 Charles Taylor, his x mark.  
 Orin Bigfire, his x mark.  
 W. Blackchief, his x mark.  
 William Taylor, sr., his x mark.  
 Go-gwa-yeh, his x mark.  
 George Beaver, his x mark.  
 William Brooks.

I hereby certify that all persons who signed this paper are men of the Seneca nation, and that they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

*Petition of the delegation of the Tonawanda band of Seneca Indians.*

To the SENATE OF THE UNITED STATES:

The petition of the undersigned, a delegation of the Tonawanda band of the Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That in addition to the facts set forth in a petition presented to our Great Father the President, addressed to himself and your most honorable body, and sent to your honorable body accompanied by a message relating thereto from our Great Father the President, are the following:

That the Tonawandas hold their reserved lands separately and in severalty as a *distinct band of the Senecas*; that as such they have unanimously protested against the sale of their lands to the Ogden Land Company; and more particularly did they protest, solemnly protest, against the treaties of January 15, 1838, and of May 20, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties.

That the said treaties were made without any participation of the Tonawandas in them, (they constantly and strenuously opposing them,) no single chief or individual of said band having ever approved them, executed them, or entered into any contract, or agreement, or sale, under them.

That no chief, warrior, or individual of the Tonawanda band of Senecas ever, at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of their reserved lands, or ever received a cent for the same, or ever made a treaty or agreement with them of any kind.

That the said treaties were made in pursuance of a resolution of the Senate of June 11, 1838, under which the Tonawanda as well as other bands were the assenting parties to make them valid; which provision has not been complied with, they never having assented to or acquiesced in them.

That at and before the time the said treaty of January 15, 1838, came up before the Senate for confirmation, the Tonawandas protested against its confirmation; but which protest, as your petitioners are informed, was not presented to the Senate, or its committee; otherwise, as they firmly believe, said treaty would never have been confirmed; and, in fact, was not confirmed by the constitutional majority of two-thirds of the Senate, as the Journal will show.

Notwithstanding all these facts, the said treaties purport to sell and convey to the said Ogden Land Company, without adequate compensation, the reserved lands of the Tonawandas, and to cruelly and unjustly compel their removal from their lands, their farms, and homes, and from the graves of their fathers.

Therefore, your petitioners most earnestly and respectfully pray that your honorable body, taking into your solemn consideration the facts herein set forth, will exercise your fullest power of revising, annulling, or defi-



ning these treaties, or taking such other action upon them as in your sacred character of guardians of the rights and protectors of the interests of your red children, or in your capacity of the treaty-making power, you may think will best further the ends of justice, remedy the evils complained of, suffered under these treaties, and relieve your petitioners from their most unjust and ruinous operation.

And your petitioners will ever pray.

JOHN BLACKSMITH, his  $\times$  mark.

Witness: WM. LINN BROWN,  
W. D. PORTER.

ISAAC SHANKS, his  $\times$  mark.

Witness: WM. LINN BROWN,  
W. D. PORTER.

ELY S. PARKER,

Witness: WM. LINN BROWN,  
W. D. PORTER.

*Delegation of the Tonawanda band of the Senecas.*

*Message from the President of the United States, communicating a petition of the Tonawanda band of Seneca Indians, praying that steps may be taken to abrogate the treaties of 1838 and 1842.*

*To the Senate of the United States:*

In compliance with the request of a delegation of the Tonawanda band of the Seneca Indians, now in this city, I herewith transmit for your consideration a memorial addressed to the President and the Senate in relation to the treaty of January 15, 1838, with the "Six Nations of New York Indians," and that of May 20, 1842, with the "Seneca Nation of Indians."

JAMES K. POLK.

WASHINGTON, April 1, 1846.

WAR DEPARTMENT,  
*Office Indian Affairs, March 28, 1846.*

SIR: I have the honor to report to you on a memorial or petition of the Seneca Indians residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, addressed to the President of the United States and the honorable the Senate.

The memorialists present their views on the subject of the treaties of 1838 and 1842, complaining that these treaties were never signed by them, and that they are not binding upon them, although ratified by the Senate: they therefore pray that the proper steps may be taken to abrogate these treaties; and that the reservations may be again placed under the government of their respective chiefs, setting forth their reasons why this should be done.

This memorial it is the request of a delegation of these Indians, now in Washington, should be presented to the Senate by the President; and it

is herewith enclosed, to be laid by you before him for such action as he may think proper to take upon it.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. WM. L. MARCY, *Secretary of War.*

*To his Excellency the President and to the honorable the Senate of the United States :*

The petition of the Seneca Indians residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents :

That we did unanimously oppose the treaty of January 15, 1838, and prevented its adoption in open council. That we did also unanimously oppose the treaty of May 26, 1842, and to the last. From the beginning to the end of these movements to take away our lands, we have unitedly and unanimously resisted.

We therefore believe that these treaties should not be executed upon us, if the principles of justice are to be followed. We believe there is no moral obligation upon us to adhere to them ; and for denying their force, and resisting their execution, we set forth the following reasons :

1st. The Senate and President of the United States assumed to treat with the Seneca nation as an independent people having power to form a treaty, and bind themselves thereby ; and then, by the resolution of June 11, 1838, took away our *independence* by prescribing the manner in which our assent should be given, namely, by the signatures of a majority of our chiefs in open council ; when, in fact, by our national laws, it was and still is necessary that *all* of the chiefs should be of one mind ; that they must *unanimously* agree to make a treaty—otherwise it cannot be made. In this fundamental law of the Iroquois, and of our nation, we at Tonawanda would have found protection. If the United States treat with us according to the laws recognised among nations, and upon the principles of justice, here is a valid objection to the execution of these treaties, and a sufficient reason why they should be unmade. We never before were required, in our treaties with the United States, to depart from our national forms of assenting to treaties which were to bind us.

2d. If it is insisted by the United States government (which has all the power to carry them into execution) that these treaties are valid notwithstanding this objection, we present as another reason why these treaties should be broken up, that no equivalent is to be given to us for our lands. The peaceful possession of these lands has been guaranteed to us by the United States government. The *ownership and the title* were in us. The Ogden Company, to whom the government right to purchase has been transferred, has a mere naked right to purchase when we are ready to sell, and nothing more. They cannot compel us to sell. Now we believe that, by the principles of justice and equity recognised among white people, we are entitled to the full value of our lands. We believe, further, that this reservation, if put in market, would bring \$14 per acre on an average, including improvements, while these treaties pay us for the land and improvements about \$2 50 per acre on an average. By these treaties, then, we are about

to be despoiled of property which was undeniably ours at the rate of \$11 50 per acre, even if we had been willing to sell it at its market value. In a word, over  $\frac{1}{4}$ ths of all we possess has been taken from us by these treaties, and given to the Ogden Company. The same estimate will hold with reference to the Buffalo reservation. How unholy this speculation! These facts alone must show that treaties so obviously unjust were never made by our nation willingly and fairly; and lead to the inference that our lands have been wrested from us so pointedly as to demand of the government of the United States, from a sense of justice to itself, that the circumstances under which these treaties were obtained should be re-examined, and, if found as represented in this petition, that the treaties themselves should be unmade by the parties thereto.

3d. In the third place, as further reasons why the United States should break up these treaties, at least so far as we at Tonawanda are concerned, we urge the following: If we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of 450 Senecas from the Buffalo reserve; so much so, that 250 still remain at Buffalo from necessity. The Cattaraugus reservation is small, and much of the land is hilly, and not capable of sustaining any families; and we believe that those already there can scarcely live. The Allegany reserve has also about as many as it can contain and support, and has more poor and hilly land in proportion than the Cattaraugus. It is absolutely impossible that we on this reservation, 500 in number, could live upon the Allegany with those already there. Starvation and misery would be the inevitable result. We cannot go there, and do not intend to, at all hazards. The truth and force of these facts will be realized when it is remembered that our two best reserves, the Tonawanda and Buffalo, are to be taken from us; and if we are all collected upon the remaining two, the number of people will thus be more than doubled at once. It is horrible to believe that the United States government will bring famine and death upon us by executing these treaties. We cannot believe it. It may be said we ought to emigrate to the western wilderness. We answer, that there are less than one hundred at this time, and never have been more than 150, out of 2,500 Senecas, willing to emigrate. We cling to the land of our birth. We are linked together by the ties of brotherhood and consanguinity; and we must share a common destiny. We prefer to progress, as we do now, towards the customs of the whites, rather than to go into the wilderness again, and fall back to our natural or the hunter state.

4th. It is not necessary for us to detail the circumstances by which the treaty of 1838 was carried through. The fact that a majority of the chiefs of our nation did not sign the treaty in "open council," as the resolution of the Senate of June 11, 1838, directed; that some of those who did sign were bribed by money and promises of land; that others were made drunk; that others were made chiefs illegally, for the express purpose of signing; are well known and now admitted. And further, as to the treaty of 1842, although a majority was then obtained, (without the votes of any of the chiefs on this reservation, who all refused either to vote or to sign,) yet the compromise was made by the Senecas under a mistaken knowledge of their rights. The only question settled by that treaty was, whether they would unconditionally [sign, or] whether they would lose all their reservations, or save two of them. It was a mere sacrifice of two to save two, believing

that the *four* were otherwise lost. The fact that a majority signed under such circumstances, gives no *moral* force to the treaty.

5th. It may be said that under these treaties the rights of the Ogden Land Company have attached; and, if the United States and the Senecas should abrogate these treaties by a new council, the company could recover damages of the government. We answer, that we are not to blame. We did not ask the United States to make a treaty with us. We did not ask the Ogden Company to buy our lands. The first treaty was absolutely thrust upon us, and the last extorted from us, when it was well known that *twenty-three hundred and fifty* out of *twenty-five hundred* Senecas were decidedly and unequivocally unwilling to sell any lands.

6th. We may be told that we must look for redress to the courts of New York, or the courts of the United States; and that they will do us justice if we are entitled to any. We answer, that we are also informed that the legal tribunals cannot look behind or below the outward face of treaties which have been ratified, and inquire into the *manner or means* whereby they were obtained. The courts of law, therefore, cannot reach the evil or do us justice. If we look away from the President and Senate, our rights, our lands, and our hopes are gone. The United States government, which authorized a commissioner to make these treaties, can authorize another commissioner to unmake them, and we, on our part as a nation, will most gladly assent.

Your petitioners, in view of all the circumstances, most humbly and earnestly pray, that before April, 1846, the Senate of the United States will pass a resolution recommending to the President that the case of the Seneca Indians demands a new and full investigation; and if the facts are found to be as represented in relation to these treaties, that the commissioner who investigates the facts shall then be authorized to make a new treaty, which shall abrogate all past treaties, and restore the Seneca nation once more to its rights, place each reservation for the future under the control of its separate chiefs, and thus give, in effect, to the Seneca nation that redress which justice, equity, and humanity demand.

And your petitioners, as in duty bound, will ever pray, &c.

#### Chiefs.

		Number in family.
John Blacksmith,	his x mark	6
James Johnson,	his x mark	2
Blue Sky,	his x mark	19
Jesse Tiffany,	his x mark	3
Lewis Poodry,	his x mark	9
Samuel Parker,	his x mark	
Win Washington,	his x mark	2
John Shry,	his x mark	7
George Babcock,	his x mark	
Richard Cooper,	his x mark	
Benjamin Jones,		
Tall Peter,	his x mark	
Isaac Shank,	his x mark	7
John Bigfire,	his x mark	3
Daniel Spring,	his x mark	5

## Warriors.

Number in family.

John Possum,	his x mark	12
Hau-nase-haa,	his x mark	6
Daniel Shry,	his x mark	7
John Moses,	his x mark	4
Samuel Parker,	his x mark	4
Jackson Ground,	his x mark	
John Brann,	his x mark	14
John Shanks,	his x mark	8
Daniel Bigfire,	his x mark	4
William Taylor,	his x mark	6
William Snyder, sr.,	his x mark	12
Squire Brooks,	his x mark	5
W. Snyder, jr.,	his x mark	6
John Cooper,	his x mark	4
John Jack,	his x mark	4
Joseph Taylor,	his x mark	5
Gar-go-oh,	his x mark	6
John Infant,	his x mark	5
William Clute,	his x mark	5
Isaac Doctor,	his x mark	9
James Shongo,	his x mark	6
Hiram Clute,	his x mark	7
John Blackchief,	his x mark	6
Monroe Jonas,	his x mark	7
Johnny John,	his x mark	10
Billy Stewart,	his x mark	7
David Printup,	his x mark	7
John Lone,	his x mark	7
David Roodey,	his x mark	
Daniel Peter,	his x mark	14
George Cooper,	his x mark	6
John Hill,	his x mark	6
George Elkintor,	his x mark	15
John Peterson,	his x mark	
John Jones,	his x mark	5
Oak-ta go,	his x mark	6
Har-ar-sars,	his x mark	7
John Miller,	his x mark	9
William Parker,	his x mark	12
Ja ga-sa-gass-ta,	his x mark	10
John Bigbay,	his x mark	9
Henry Moses,	his x mark	10
James Gar-nos-crog,	his x mark	7
James Joshua,	his x mark	3
William Hatch,	his x mark	6
Isaac Duxtater,	his x mark	7
William Bigfire,	his x mark	5
Isaac Johnson,	his x mark	7
John Brbokes,	his x mark	2
John Shepard,	his x mark	5



James Tommy,	his x mark	
Ephraim Thomas,	his x mark	4
Levi Parker, esq.,		
John P. Poodry,		2
Henry Parker,		
George Moses,	his x mark	6
William Jimmy,		5

I hereby certify that all persons who signed this paper are men of the Seneca nation, and they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

*Case of the Tonawanda Indians in brief, accompanied with proofs.*

As requested by the committee of the Senate on Indian Affairs, the undersigned has the honor to hand to the committee a list of the points in his argument made before them, and the accompanying proofs of facts.

The following are the points of the case, accompanied with conclusive proof:

*Point 1st.* That the resolution of the Senate of 11th June, 1838, has not been complied with.

*Point 2d.* That the Tonawandas are no parties to these treaties, and never assented to them as required by the Senate's resolution.

*Point 3d.* That from the commencement of these unjust treaties, up to this present time, they have been constant opposers and protestants against them.

*Point 4th.* That they strip them of their property without an adequate equivalent, and place them in a situation inadequate for their support, entailing misery and want upon them.

*Point 5th, lastly.* That these treaties are so tainted with fraud and deception, so destructive of all right, and so manifestly cruel and unjust in their operations, as to make it imperative upon the Senate, upon every principle of duty and faith, to grant the prayers of the petitioners, to act upon them and relieve them.

In support of 1st point: -

I hand herewith a volume of Indian treaties, (marked A.) At pages 48 and 49, &c., will be seen the treaties of the United States with the Senecas, and their mutual contracts. Also a speech on these Indian treaties, (marked C,) in which is the resolution of the Senate under which these treaties were made; and by reference to the treaties, the tribe or band of the Tonawandas not being parties, (as it will be seen,) their lands cannot be taken away under it.

To sustain the 2d point:

I hand herewith a volume of the case of the Seneca Indians, (marked D.) At pages 93, &c., you will see all the parties' names to the treaty of 1838 set out. Also the treaty of 1842, (marked F,) with all the names thereto. Also the memorial of the Tonawandas, (marked L,) signed by all the chiefs and warriors of that tribe; by a comparison of which you will see that not an individual of the Tonawandas has signed either treaty, or assented to them, as required by the Senate's resolution.

In proof of the 3d point :

I present the same volume, (marked D.) At pages 139, 140, and 141, is the protest of all the Tonawanda chiefs and warriors against the treaty of 1838 ; also the proceedings of the council of 1842. At pages 28, 73, and 74, you will find the reiterated solemn remonstrance and rejection, in open council, of the treaty of 1842, by the principal sachem, for himself and all the Tonawanda chiefs. Also a certified copy of letter to the President, signed by all the Tonawanda chiefs, charging the government of the United States not to receive treaty money from the company, (marked G,) and protesting anew against the treaty of 1842. Also another remonstrance to the President, signed by all the chiefs, against all the acts of the Ogden Company, and receiving treaty money, (marked H.) Also another public protest (marked I) against the sale of the Tonawanda lands at Batavia, addressed to the Secretary of War. These, with those now before the Senate, prove a current of solemn protest, remonstrance, and dissent to these treaties from the commencement to this time.

To sustain the 4th point :

I refer to the petition already presented, (marked G,) in which the whole body of chiefs solemnly aver that their lands now held are *fifty acres* to each *individudl*. In connexion with this, I present book marked B ; at pages 190, 191, and 193 are tables showing these assertions to be *true*, and an estimate (marked J) elucidating this and giving the result—showing that every assertion in this point is sustained, and that they are *despoiled* of their lands, and are in future to suffer *want and misery* in receiving not sufficient land for support, although they are, as stated in report in book marked B, in a high state of civilization ; (pages 189 and 190.)

To sustain the 5th and last point :

I present the whole record, showing fraud and deception throughout practised upon the *Indians* and the *government*. More particularly to show this, I present the document marked M, being the proceedings of the mass meeting of the people of New York, whose sense of justice and moral regard to right have been so deeply wounded by these treaties, that they have risen as *one man* against them. Take these, with the petition of the delegates, (marked L,) and that marked N, accompanying the President's message, and the foundation of it, every averment in which is *proved by documentary testimony* presented to the committee, and the whole charge in this point is fully made out—*presenting a case* that, indeed, in the opinion of the undersigned, makes it *imperative* upon the treaty-making power to *grant the prayer of the petitioners*.

WM. LINN BROWN, *Philadelphia,*  
*Counsel for the Tonawandas.*

## A.

*A treaty between the United States of America, and the tribes of Indians called the Six Nations.*

The President of the United States having determined to hold a conference with the Six Nations of Indians, for the purpose of removing from their minds all causes of complaint, and establishing a firm and permanent friendship with them; and Timothy Pickering being appointed sole agent for that purpose, and the agent having met and conferred with the sachems, chiefs, and warriors of the Six Nations; in a general council: now, in order to accomplish the good design of this conference, the parties have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the Six Nations:

ART. 1. Peace and friendship are hereby firmly established, and shall be perpetual between the United States and the Six Nations.

ART. 2. The United States acknowledge the lands reserved to the Oneida, Onondaga, and Cayuga nations, in their respective treaties with the State of New York, and called their reservations, to be their property; and the United States will never claim the same nor disturb them or either of the Six Nations, nor their Indian friends residing thereon, and united with them in the free use and enjoyment thereof; but the said reservations shall remain theirs until they choose to sell the same to the people of the United States who have a right to purchase.

ART. 3. The land of the Seneka nation is bounded as follows: Beginning on lake Ontario, at the northwest corner of the land they sold to Oliver Phelps, the line runs westerly along the lake, as far as Oyongwongyeh creek, at Johnston's Landing Place, about four miles eastward from the fort of Niagara; then southerly, up that creek to its main fork; then straight to the main fork of Stedman's creek, which empties into the river Niagara above Fort Schlosser; and then onward, from that fork, continuing the same straight course, to that river; (this line, from the mouth of Oyongwongyeh creek to the river Niagara, above Fort Schlosser, being the eastern boundary of a strip of land extending from the same line to Niagara river, which the Seneka nation ceded to the King of Great Britain at a treaty held about thirty years ago with Sir William Johnston;) then the line runs along the river Niagara to lake Erie; then along lake Erie to the northeast corner of a triangular piece of land, which the United States conveyed to the State of Pennsylvania, as by the President's patent, dated the third day of March, 1792; then due south to the northern boundary of that State; then due east to the southwest corner of the land sold by the Seneka nation to Oliver Phelps; and then north and northerly, along Phelps's line, to the place of beginning on lake Ontario. Now, the United States acknowledge all the land within the aforementioned boundaries to be the property of the Seneka nation; and the United States will never claim the same, nor disturb the Seneka nation, nor any of the Six Nations, or of their Indian friends residing thereon and united with them, in the free use and enjoyment thereof; but it shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase.

ART. 4. The United States having thus described and acknowledged what lands belong to the Oneidas, Onondagas, Cayugas, and Senekas, and

engaged never to claim the same, nor to disturb them or any of the Six Nations, or their Indian friends residing thereon, and united with them in the free use and enjoyment thereof; now the Six Nations, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 5. The Seneka nation, all others of the Six Nations concurring, cede to the United States the right of making a wagon road from Fort Schlosser to lake Erie, as far south as Buffalo creek; and the people of the United States shall have the free and undisturbed use of this road, for the purposes of travelling and transportation. And the Six Nations, and each of them, will forever allow to the people of the United States a free passage through their lands, and the free use of the harbors and rivers adjoining, and within their respective tracts of land, for the passing and securing of vessels and boats, and liberty to land their cargoes where necessary for their safety.

ART. 6. In consideration of the peace and friendship hereby established, and of the engagements entered into by the Six Nations, and because the United States desire, with humanity and kindness, to contribute to their comfortable support, and to render the peace and friendship hereby established strong and perpetual, the United States now deliver to the Six Nations, and the Indians of the other nations residing among and united with them, a quantity of goods of the value of ten thousand dollars; and for the same considerations, and with a view to promote the future welfare of the Six Nations and of their Indian friends aforesaid, the United States will add the sum of three thousand dollars to the one thousand five hundred dollars heretofore allowed them by an article ratified by the President, on the twenty-third day of April, 1792, making in the whole four thousand five hundred dollars; which shall be expended yearly, forever, in purchasing clothing, domestic animals, implements of husbandry, and other utensils suited to their circumstances, and in compensating useful artificers, who shall reside with or near them, and be employed for their benefit. The immediate application of the whole annual allowance now stipulated to be made by the superintendent, appointed by the President, for the affairs of the Six Nations, and their Indian friends aforesaid.

ART. 7. Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United States and Six Nations agree, that for injuries done by individuals on either side no private revenge or retaliation shall take place; but, instead thereof, complaint shall be made, by the party injured, to the other: by the Six Nations, or any of them, to the President of the United States, or the superintendent by him appointed: and by the superintendent, or other person appointed by the President, to the principal chiefs of the Six Nations, or of the nation to which the offender belongs; and such prudent measures shall then be pursued as shall be necessary to preserve our peace and friendship unbroken, until the legislature (or great council) of the United States shall make other equitable provision for the purpose.

NOTE.—It is clearly understood by the parties to this treaty, that the annuity stipulated in the sixth article is to be applied to the benefit of such of the Six Nations, and of their Indian friends united with them as aforesaid, as do or shall reside within the boundaries of the United States; for the United States do not interfere with nations, tribes, or families of Indians elsewhere resident.

In witness whereof, the said Timothy Pickering, and the sachems and war chiefs of the said Six Nations, have hereto set their hands and seals.

Done at Konondaigua, in the State of New York, the eleventh day of November, in the year one thousand seven hundred and ninety-four.

Timothy Pickering,	[ L. S. ]
Woyeahnee, his x mark,	[ L. S. ]
Woneatorteeooh, his x mark, or Handsome Lake,	[ L. S. ]
Wenhyouhau, his x mark, alias Captain Key,	[ L. S. ]
Weshauee, his x mark,	[ L. S. ]
Wendrick Aupaumut,	[ L. S. ]
David Neesoonhuk, his x mark,	[ L. S. ]
Kanatsoyh, alias Nicholas Kusik,	[ L. S. ]
Wohhonteoquent, his x mark,	[ L. S. ]
Woduhsait, his x mark,	[ L. S. ]
Konoochqung, his x mark,	[ L. S. ]
Wossonggaulolus, his x mark,	[ L. S. ]
John Skenendoa, his x mark,	[ L. S. ]
Woneatorleeooh, his x mark,	[ L. S. ]
Kussauwatau, his x mark,	[ L. S. ]
Wyoootenyootauook, his x mark,	[ L. S. ]
Wohnyeaugong, his x mark, alias Jake Stroud,	[ L. S. ]
Shaguiesa, his x mark,	[ L. S. ]
Teeroos, his x mark, alias Captain Prantup,	[ L. S. ]
Woshaoowau, his x mark,	[ L. S. ]
Henry Young Brant, his x mark,	[ L. S. ]
Sonhyoowauna, his x mark, or Big Sky,	[ L. S. ]
Onaahhah, his x mark,	[ L. S. ]
Hotoshahenh, his x mark,	[ L. S. ]
Wankondanaiya, his x mark,	[ L. S. ]
Noodiyauka, his x mark,	[ L. S. ]
Wheeshtowau, his x mark,	[ L. S. ]
Woojaugenta, his x mark, or Fish Carrier,	[ L. S. ]
Wohheonggo, his x mark,	[ L. S. ]
Wotaguasso, his x mark,	[ L. S. ]
Woonondauwaonch, his x mark,	[ L. S. ]
Kiyauhaonh, his x mark,	[ L. S. ]
Ootaujeaugenh, his x mark, or Broken Axe,	[ L. S. ]
Tanhoondos, his x mark, or Open the Way,	[ L. S. ]
Woundaudeesh, his x mark,	[ L. S. ]
Twaukewasha, his x mark,	[ L. S. ]
Wequidongquee, his x mark, alias Little Beard,	[ L. S. ]
Kodjeote, his x mark, or Half Town,	[ L. S. ]
Wenjauaugus, his x mark, or Stinking Fish,	[ L. S. ]
Woonohquaukau, his x mark,	[ L. S. ]
Wennyiana, his x mark,	[ L. S. ]
Wohkaaga, his x mark, or Green Grashopper, alias Little Billy,	[ L. S. ]
Wuggeshshotta, his x mark,	[ L. S. ]
Tehongyagauna, his x mark,	[ L. S. ]
Wohnyyoowush, his x mark,	[ L. S. ]
Wohnyyoowesot, his x mark,	[ L. S. ]
Tioohquottakauna, his x mark, or Woods on Fire,	[ L. S. ]



Honayawus, his x mark, alias Farmer's Brother,  
 Soggooyawauthau, his x mark, alias Red Jacket,  
 Konyootaiyoo, his x mark,  
 Sauhtakaongyees, his x mark, or Two Skies of a length,  
 Ounnashattakau, his x mark,  
 Kaungyanehquee, his x mark,  
 Sooayoowau, his x mark,  
 Kaujeagaonh, his x mark, or Heap of Dogs,  
 Soonooohshoowau, his x mark,  
 Thaoowaunias, his x mark,  
 Soonongjoowau, his x mark,  
 Kiantwhauka, his x mark, alias Cornplanter,  
 Kaunehshonggoo, his x mark,

[ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]  
 [ L. S. ]

## WITNESSES :

Israel Chapin,  
 William Shepard, jr.,  
 James Smedley,  
 John Wickham,  
 Augustus Porter,  
 James K. Garnsey,

William Ewing,  
 Israël Chapin, jr.,  
 Horatio Jones, }  
 Joseph Smith, } *Interpreters.*  
 Jasper Parish, }  
 Henry Abeele.

## B.

*Extract from the report of Mr. Schoolcraft to the Secretary of the State of New York, transmitting the census returns in relation to the Indians.*

"The seeds of industry are well sown; letters have been generally introduced, and in some instances they have produced men of talents and intelligence, who have taken an honorable part in the professional and practical duties of life. Very gratifying evidences exist of the adoption, on a large scale, of the improved arts and conveniences of polished life. In manners, costume, and address, the Iroquois people offer a high example of the capacities and ready adoptive habits of the race. It only needs a reference to the statistical tables mentioned, to show that they are not behindhand in implements of husbandry, vehicles, work-cattle, horses, and the general features of their agriculture. They are abundantly able to raise sufficient for their own consumption, and some of the communities have a surplus which is added to the productive resources of the State. From those who have done so well, and who have shown such unequivocal capacities for improvement, we may expect more. From the tree which has produced blossoms, we may expect fruit; and from the bearing tree which has produced good fruit, we may expect more fruit. Under all circumstances, we may regard the problem of their reclamation as fixed and certain. They have themselves solved it; and whatever an enlightened people and legislature should do to favor them, ought not to be omitted. Churches and societies who have granted their peculiar aids, should continue those aids; and the heart of the philanthropist and the statesman has cause to rejoice, that after all their wars and wanderings, mistakes and besetments, the Iroquois, made wise by experience, are destined to live. The results of the census, herewith submitted, demonstrate this. The time is indeed propitious for putting the inquiry, whether the Iroquois are not worthy to be received, under the new constitution, as citizens of the State."

*Return of the enumeration of the Indians on the several reservations, with the other statistical information required by law to be obtained in the said reservations.*

1.	Total population.	2. Number of male persons in the reservation.	3. Number of female persons in the reservation.	4. Number of married females, under the age of 45 years, in the reservation.	5. Number of unmarried females, between the ages of 16 and 45, in the reservation.	6. Number of unmarried males, under 16 years of age, in the reservation.	7. Number of marriages during the year preceding, in the reservation.
RESERVATIONS.							
1. Oneida - - - - -	157	71	86	24	3	47	
2. Onondaga - - - - -	368	173	195	63	19	73	5
3. Tuscarora - - - - -	312	148	164	18	10	11	6
4. Buffalo - - - - -	446	200	246	73	47	61	3
5. Cattaraugus - - - - -	808	393	415	89	40	30	10
6. Cayugas, on the Cattaraugus reservation - - - - -	114	56	58	16	6	5	2
7. Allegany - - - - -	783	390	393	127	33	168	6
8. Tonawanda - - - - -	505	224	281	101	45	69	4
9. St. Regis - - - - -	260	126	134	44	5	67	
Total - - - - -	3,753	1,781	1,972	555	208	531	36

RETURN—Continued.

RESERVATIONS.	8.		9.		10.	11.	12.	13.	14.
	Number of births in the reservation during the year preceding.		Number of deaths in the reservation during the year preceding.		Number of persons in the reservation born in the State of New York.	Number of persons in the reservation born in any of the other States of the Union.	Number of persons in the reservation born in G. Britain or its possessions.	Number of children in reservation between the ages of 15 and 16 years.	Number of children in the reservation attending private or select unincorporated schools.
	Males.	Females.	Males.	Females.					
1. Oneida - - - - -	8	5	1	-	155	1	1	59	20
2. Onondaga - - - - -	6	10	11	12	364	-	1	169	40
3. Tuscarora - - - - -	5	5	1	3	286	-	30	63	43
4. Buffalo - - - - -	3	7	14	7	433	1	6	117	57
5. Cattaraugus - - - - -	17	11	11	13	789	-	7	121	86
6. Cayugas on the Cattaraugus reservation - - - - -	4	1	3	3	114	-	-	21	14
7. Allegany - - - - -	13	6	13	13	752	35	-	927	162
8. Tonawanda - - - - -	5	8	4	3	496	-	11	126	40
9. St. Regis - - - - -	-	7	5	3	125	-	135	81	-
Total - - - - -	61	60	63	57	3,514	37	191	984	462

[ 156 ]

Agricultural statistics.

RESERVATIONS.	15.	16.		17.		18.		19.	
	Acres of land.	Barley.		Peas.		Beans.		Buckwheat.	
	Number of acres of improved land in the reservation.	Number of acres of barley under cultivation.	Quantity of barley raised therefrom during the preceding year.	Number of acres of peas under cultivation.	Number of bushels raised.	Number of acres of beans.	Quantity raised.	Number of acres of buckwheat.	Quantity raised.
1. Oneida -	421	10	200	3 $\frac{1}{2}$	35	3 $\frac{1}{4}$	11		
2. Onondaga	2,043 $\frac{1}{2}$	2 $\frac{1}{2}$	70	7 $\frac{1}{2}$	91	-	-	2 $\frac{1}{2}$	50
3. Tuscarora	2,079 $\frac{1}{2}$	20	430	5	65	-	-	18 $\frac{1}{2}$	245
4. Buffalo -	1,914	-	-	18 $\frac{1}{2}$	-	-	-	3	
5. Cattaraugus	2,123	96 $\frac{1}{2}$	1,300	-	301	-	-	6 $\frac{1}{2}$	420
6. Cayugas on the Cattaraugus reservation	316	-	-	-	23	-	-	-	227
7. Allegany	2,163 $\frac{1}{2}$	6	35	18 $\frac{1}{4}$	90	-	-	18 $\frac{1}{4}$	
8. Tonawanda	2,216	42	550	30	200	1	15	5	112
9. St. Regis	591 $\frac{1}{2}$	2	-	27	105	11	18	8	
Total	13,867 $\frac{1}{2}$	177 $\frac{1}{2}$	2,585	110	910	15 $\frac{1}{4}$	44	61 $\frac{1}{4}$	1,054

## C.

*Speech of Mr. Sevier, of Arkansas, in executive session, on the treaty with the New York Indians; delivered in the Senate of the United States March 17, 1840.*

Mr. SEVIER addressed the Senate as follows :

Mr. PRESIDENT: The treaty now under consideration is a complicated affair, and on that account, as well as on account of its importance to the Seneca Indians, to the State of New York, to the grantees of the State of Massachusetts, and to the United States, I hope, while I endeavor, in discharge of my public duty as chairman of the committee on Indian Affairs, to explain it, that I shall be indulged with the patient attention of the Senate.

This is a treaty of much more importance than is generally supposed. It is one about which the Senecas and their friends feel, as they have felt for upwards of two years, (during all of which time it has been before the country, in one form or another,) a deep, intense, and an all-absorbing interest. The written appeals of a large majority of this tribe to the President and to the Secretary of War, to the Senate, and to individual Senators, earnestly imploring a rejection of this treaty; the immense mass of testimony with which they have furnished us respecting it; the constant attendance of their delegates here, upon their own expenses, at a great distance from their homes, and at the sacrifice of an utter abandonment of their private pursuits, at all times, when this treaty was before the Senate; and their daily attendance in our galleries, to observe and to gather, if possible, something from our proceedings, show most abundantly the light in which this treaty is viewed by them.

On the other hand, the citizens of New York, and especially those residing about Buffalo, have their wishes and hopes and fears respecting its fate with the Senate. They have furnished us, also, with testimony and memorials, and sage suggestions, upon the subject of Indian policy and Indian welfare. They, too, have had their lobby members and ambassadors here, consisting of both red and pale faces, for the purpose of urging this treaty through this body. Nor are these the only interested parties. Massachusetts seems to have in this treaty something more than a general interest; she seems to have an interest somewhat particular and identical, which I deem important first to consider and explain, that we may fully understand it in all its bearings.

Prior to 1786, Massachusetts claimed, as properly belonging to her, a portion of the State of New York. This claim New York contested; and this somewhat angry controversy was not finally settled, as we learn from the public journals of that day, until 1786. This dispute was then settled, by Massachusetts ceding to New York all her right and title to the *government, sovereignty, and jurisdiction* over the disputed territory; and, in consideration of this cession, the State of New York ceded to Massachusetts, and to her grantees, and to the heirs and assigns of her grantees, *the right of pre-emption of the soil of the native Indians* to the territory described in this compromise. The native Indians occupying the territory to which Massachusetts thus acquired the right of pre-emption were then, as now, the Tuscaroras and Senecas of New York.

It was further stipulated in this compromise by New York, that Massa-



chusetts might, at any time, by persons duly authorized by her for that purpose, hold *treaties* and *conferences* with these Indians *relative to a purchase of their lands*; and further, that Massachusetts should have the right to dispose of this pre-emption right to any person whatever. This compromise was approved of and sanctioned by Congress in 1787. A complete and full detail of this contract is to be found in the 4th volume of Journals of Congress of the year 1787, at page 788, to which I respectfully refer any honorable Senator who may desire to see it.

The right of pre-emption being thus secured to her, as well as the right to dispose of it, Massachusetts did afterwards, in 1791, sell this right of pre-emption to the Holland Land Company, and that company to David Ogden, and Ogden to the present claimants. The present claimants being the grantees and representatives of Massachusetts, have the indisputable right to hold *treaties* and *conferences* with the native Indians, for the purpose of purchasing out the Indian right of occupancy; and in exercising this right, though courtesy might seem to require it, this company are under no obligations to consult either New York or the United States. I have not been able to lay my hands upon the contract between Massachusetts and her grantees, and am therefore ignorant of the terms of that contract. But, judging from the interest which Massachusetts invariably manifests upon the subject of the acquisition of these lands, and upon seeing her represented by an agent or superintendent at every sale of them, I have concluded that she considers herself bound by her contract to either New York or her grantees, and probably to both, for the performance of her superintendency upon such occasions. How this matter stands I know not; but should such information be thought desirable by the Senate, I presume the distinguished Senators from New York and Massachusetts can give it.

Mr. President, in considering the various interests involved in this treaty—the interests of the Senecas, of the citizens of New York, and of the grantees of Massachusetts—the committee have thought it their duty to consider, in connexion with those interests, the interests of a fourth party, which is that of the United States. And with a view to understand this complicated affair, the committee have endeavored to trace our relations with the Six Nations of New York, from their commencement up to this day, so far at least as the Senecas are concerned, for the purpose of discovering if there be on our part any *undischarged obligations* to either of the parties interested in the subject-matter now before us. The first treaty which I have been able to find with the Six Nations of New York was concluded in 1784. That was a treaty of peace, a relinquishment of territory on their part, and a definition of their boundary lines on ours. In 1789, five years thereafter, a second treaty was made, which is, so far as I have been able to discover, but little more, if any thing, than a recapitulation of the former one.

The third and last treaty ever made by us with the Six Nations of New York, in their confederated character, (unless the one we are now considering should constitute a single exception,) was made in 1794. This was an important treaty, and has governed us in all our intercourse with them ever since. In that treaty we acknowledged *separately*, to each of the tribes composing the Six Nations, their individual right and title to certain specific reservations of land; and we guaranteed to them *separately* the possession and enjoyment of their respective reservations; and conferred upon them the right to dispose of their reservations respectively, in whole

or in part, to any citizen or citizens of the United States, whenever and however they might choose; and for these rights the Indians on their part engaged, in the same treaty, never to set up any claim to any other lands in the boundaries of the United States, than those granted in that treaty.

This was the last treaty ever made by us with those Indians, collectively or separately, from 1794 up to 1838—a period of more than forty years. From that time onward, to 1838, we acted in good faith, and permitted those Indians, according to the terms of the treaty of 1794, so far at least as the Senecas were concerned, to dispose of their New York lands as they chose. Since 1794, the Senecas have disposed of their lands on several occasions. In 1797, they were permitted to sell to Robert Morris, of Philadelphia, a portion of their reservations. Afterward, in 1802, the same Senecas were permitted to sell another portion of their lands to Phelps, Bronson, and Jones; and again, in the same year, to Wilhelm Willick and others; and again, in 1823, to Grigg and Gibson. Each and all of those sales were made openly, freely, and voluntarily, and under the guardian care *only* of the United States on the one hand, and of the agent or superintendent of the State of Massachusetts on the other. These lands were transferred by the Indians to their grantees, *not by treaty*, but by the ordinary deeds of conveyance; nor does the transfer of those lands to Ogden and Fellows, in 1838, vary in any degree but in the prefixure of a preamble to it, from all the other deeds of conveyance which have been made by them subsequent to 1794.

Having, then, as we have seen by the treaty of 1794, such ample power to dispose of these lands—a power so often and so satisfactorily exercised by them—and the United States having no interest whatever in these lands; and being constitutionally incapable of having any, and not being bound by compact, as in the case of Georgia, to extinguish the Indian title to those lands, it may well be asked, why have we interfered in this affair? Why have we attempted, with unabated assiduity, for more than two years, with our influence, with our agents, and means, and money, to barter with those Indians for their New York reservations? I will endeavor, sir, to unravel this mystery. It is a curious piece of intrigue and history, which should never be forgotten, as it may be of some service to the country hereafter.

As early as 1818, we find the agents of two small bands of New York Indians applying to Mr. Monroe, then President of the United States, for permission to purchase, *with their own means and upon their own account*, of the Menomonies of Green Bay, a portion of their lands. The files of the War Department will show that the grantees of Massachusetts were at the bottom of this simple, unpretending, and modest application; and, among other reasons, we find that religion, which is so often prostituted by the designing to cover up intrigue and sinister motives, was the argument used on that occasion to obtain this permission. It will be recollected that the United States will permit no Indian tribe which they have any thing to do with to dispose of their lands except to the United States. The authority, therefore, of the United States was indispensable to enable the missionaries, Williams and Hendricks, to make a valid purchase of the Menomonies. Mr. Monroe, not foreseeing the objects in view, and understanding distinctly, as their memorial expressly stated, that these two bands were to pay out of their own means for all the lands they purchased of the Menomonies; and further, that they were to acquire, by such purchase, no

other or better right than that held by the Menomonies—so understanding it, Mr. Monroe gave his assent to such a purchase. The assent of Congress, or of the Senate, to such an unusual arrangement, was neither asked nor obtained. It seems to have been looked upon by Mr. Monroe as quite a small affair. Under his authority, thus obtained, the agents of these two small tribes, as *they alleged*, made a purchase, and paid for it, as they informed us, the sum of \$12,000. This purchase, however, has ever been strenuously denied by the Menomonies, and the contract made between those Indians, whatever it was—if, indeed, there ever was any—is not now to be found where, surely, if in existence, it ought to be found—in either the Indian Bureau or in the War Department. As matters now stand, however, it is but of little consequence for us to know (unless for the purpose of seeing in what manner we have been imposed upon) whether such a contract ever existed or not. We all know there was a controversy about it between the parties, and that we were drawn into it. This controversy was settled by us in a treaty with the Menomonies in 1832. Thus we see that this small affair, which originally was to be confined to two small tribes, and which on our part was to have been nothing more than a mere naked assent, now loses its insignificance, and begins to swell into a matter of considerable importance. Here we find ourselves placed in a dilemma which was brought about, as they doubtless anticipated, by the early intrigue of this land company. These small bands, under Mr. Monroe's permission, moved to Green Bay; and as the title to the lands they claimed by purchase was retroverted, we were called upon to interfere, and (as we supposed, to benefit the Indians) did interfere, and bought out the Menomonies for them, and gave them the lands. And there they are yet. This treaty does not disturb them. This is not all. We have paid back to them not only the \$12,000 they allege to have paid the Menomonies, but we have given them a great deal more. We have given them, besides the lands they claim to have purchased of the Menomonies for their \$12,000, the sum of \$40,000—\$5,000 to the St. Regis tribe, and \$35,000 to the Oneidas—as a remuneration to them for their purchase of, and removal to, the Green Bay lands, under Mr. Monroe's permission. Now, let me ask, if it be not too late, why have we submitted to such imposition? Why have we bought land for these New York Indians, over whom we had no control or jurisdiction? Why have we made large advances to them, without any consideration? We have done so for the double purpose of gratifying New York and this overgrown and grasping land company. We have thus seen Mr. Monroe's permission, of which I have spoken, first leading to an Indian controversy, and then ending in a settlement of it by which we have had to buy land and advance thousands of dollars as remuneration (as it is falsely called) to these New York Indians; and all without the pretext of an obligation or consideration on our part.

I will now, Mr. President, take my leave of the Green Bay Indians, and return to the treaty of 1832. In that treaty, concluded in this city with a delegation from the Menomonies of Wisconsin, we obtained of them, for the sum of \$20,000, 500,000 acres of their lands near Green Bay, for the future residence not only of those small bands who emigrated under Mr. Monroe's permission, but for *all* of the New York Indians then residing in New York. We obtained this land, so far as we were concerned, as a mere gratuity, and without any other consideration, so far as appears to me, than the wishes of New York and this land company that we should do so.

New York desired this land secured ; not so much for the residence of those then residing in Wisconsin, for their welfare had ceased to interest her, but for the New York Indians then within her borders, in the hope that her Indians could be induced to move to them ; and in that event, that she would be rid of an Indian population, at the expense of the United States, she was most anxious to get clear of ; and that the land company would be able, for little or nothing on their part, to get of them their New York lands, mainly but indirectly at the expense of the United States also. These were the calculations ; and hence we find that in that treaty the New York Indians, although apparently so deeply interested, were not parties to it. And why were they not ? I will endeavor to inform you, sir.

In the treaty of 1794, the New York Indians engaged to claim no other land within the boundaries of the United States than that particularly described in that treaty. They had modesty and honesty enough to know that there was no treaty ever afterwards made by which we were pledged or bound to purchase land for them at Green Bay, or anywhere else. They knew they had no claim of any character upon us ; and not desiring any other lands than those they were possessed of, and seeing no necessity for a treaty, they stood aloof, and had no participation in it. And in this same treaty the Menomones disclaim any right or just claim of the New York Indians to the Green Bay lands. And this is not the only disclaimer. We find in the printed documents now before us, at page 127, that the Senecas say that "the Senecas have no right or title to that country, (Green Bay,) as we have never accepted or paid for any interest there, nor do we at this time have any claim to that country whatever." And I will add, that in a letter received last night I am informed that the Senecas are now holding a council for the purpose of *retransferring* to you *this gratuity*, which, given to them in 1832 without their knowledge or consent, you seem determined to force upon them, and which they on their part seem disposed just as decidedly to reject—with a full knowledge that the New York Indians then residing in New York had no claims upon us for lands anywhere ; and, on the contrary, when we knew they had solemnly engaged, in their treaty of 1794, to set up no claim for any other within the boundaries of the United States than those particularly described in that treaty ; yet, with a full knowledge of all this, we made the treaty of 1832.

In that treaty, in which the New York Indians were not parties, it was stipulated, without their consent or knowledge, that they should remove to the lands we purchased for them at Green Bay, within three years thereafter, or else that their right to this 500,000 acres of land should be forfeited, and revert to the United States. This penalty was inserted under a belief that it would not be disregarded by the Indians ; but, on the contrary, would be considered of such consequence as to induce their emigration. If it was not so designed, why was a time fixed for their emigration at all ? Of what consequence was it to us whether those Indians emigrated this year or next year, or never ? Sir, the Indians looked upon the whole of these proceedings, in which they had had no participation, with a provoking indifference and nonchalance. They cared nothing for these lands, or the forfeiture thereof. They considered they had comfortable homes in New York, and there they determined to remain. This temper of the Indians was soon found out by those desiring their emigration ; and it was, therefore, necessary to get the time for their removal extended, so that the company could have time to apply the *proper remedies*, and bring about a con-

version of the Indians to an acquiescence in their desired policy. Governed by such considerations as these, we were applied to to change this provision in the treaty; and, as usual, we permitted ourselves, like a nose of wax, to be twisted about by this company, and to gratify them did modify this provision, by a supplementary article to the treaty, so as to leave the time for their removal to the discretion of the President of the United States. So it stands now. Eight years have elapsed since that treaty was made, and yet the President has not required those Indians to move to their Green Bay lands, or notified them, if they did not by a given time, that he should exact the penalty according to the terms of the treaty. The reasons of the President for permitting those Indians to remain upon their New York lands without exacting the penalty, are doubtless benevolent, humane, and praiseworthy. His forbearance upon this subject, thus far at least, is not considered by me just cause of censure. Yet I should consider it his duty, before a great while, to close up this contingent claim. I think if these Indians do not within a reasonable time move to these lands, that they should revert to the United States; and in this reversion they can have no just cause of complaint. Their title to these lands is *conditional—dependent entirely upon their removal to them*. It was a mere gratuity on our part, and cost them nothing, not even solicitation or empty thanks; and now, if they will not accept our proffered gratuity—if they will not occupy those lands, voluntarily tendered to them *on that condition*, there can be no injustice in exacting their forfeiture on their failure to comply with the condition.

Mr. President, we purchased, as before observed, in 1832, 500,000 acres of land at Green Bay, for the future residence of the New York Indians. This purchase being on our part, as before stated, a mere gratuity, and, so far as appears from our records, without the knowledge or solicitation of the Indians, five years thereafter, in the year 1837—for what reasons or at whose promptings we are left to conjecture—it seems to have become suddenly, and all at once, a matter of vital importance for us to purchase out this gratuity—a gratuity which the Indians considered of so little consequence or value to them, that they would neither move to it, nor have it. But no matter for that: we determined to buy back from them what we had given them as a present five years before; and, in furtherance of these views, in 1837 we appointed a commissioner to accomplish for us this all-important object.

A purchase of this Green Bay land was the *ostensible* object of this mission. The *real* object, as I shall show you in the progress of this discussion, was to obtain our influence, and our means and money, to *assist* a dozen or so of land speculators to purchase of the New York Indians their New York lands, for which they held, under Massachusetts, the pre-emption right. And, sir, we have already done so, to some extent. We have purchased out for this company, and for New York, five of the six tribes—all of the New York Indians, except the Senecas—and we have attempted to buy them out also; whether successfully or not, remains to be seen by a decision upon the question now before us.

In 1837, as before observed, we appointed a commissioner, with the *ostensible* object of purchasing of the New York Indians their Green Bay lands. So soon as this was known, we found much excitement and agitation among the Indians, growing out of their attachment for, and reluctance to leave, their native land. They understood very fully the object of the



negotiation. They knew the Green Bay land was but a *pretext*, and not the *real* object of the commissioner. They understood all this. They knew the object of the treaty was to get from them, for the land company, their New York lands. To overcome these scruples, and to reconcile them to the measure, the agents of the land company went to work, and I will now show you, sir, in what manner :

“Articles of agreement made and concluded this 29th day of July, 1837, between Heman B. Potter, of the city of Buffalo, of the first part, and John Snow, a Seneca chief, of the Buffalo Creek reservation, in the county of Erie, of the second part.

“Whereas, in conformity with the declared policy of the government of the United States, the proprietors of the pre-emptive title of and in the four several tracts of land reserved by the Seneca tribe of Indians, within the said State of New York, are desirous to induce the above mentioned tribe of Indians to accept, for their future and permanent residence, a tract of country in the territory west of the river Mississippi appropriated for Indians inhabiting the Atlantic and other neighboring States; and are also desirous, by fair purchase, to extinguish the right of the said Indians in and to the lands in this State so reserved by them :

“And whereas, in furtherance of these objects, and in order to a future treaty by which to effect the same, the said proprietors have authorized negotiations to be opened with the chiefs and other leading men of the said tribe of Indians, and certain offers to be made to them in money as a permanent fund for the nation, and a compensation for their improvements; and have also deemed it advisable and necessary to employ the aid, co-operation, and services of certain individuals who are able to influence the said Indians to accept the offers so to be made to them :

“And whereas the said Heman B. Potter, the party of the first part, is empowered to act on behalf of the said proprietors, and to contract with any individuals whose co-operation and agency may be necessary and efficient in accomplishing the above mentioned object; and the said John Snow, the party of the second part, has agreed to contribute his influence and services in the premises; and in case of the extinguishment of the said Indian title to the said reserved lands as aforesaid, to sell to the said proprietors all and singular his improvements of, in, and to the same :

“Now, therefore, it is mutually agreed by and between the parties hereto, as follows :

“First. The party of the second part undertakes and agrees to use his best exertions and endeavors to dispose and induce the said Indians to adopt and pursue the advice and recommendations of the government of the United States, in respect to their removal and future location; and on such *said* terms as the party of the first part, and his associates, in the name of the said proprietors, shall propose to sell and release, by treaty, their said reserved lands; and on all occasions to co-operate with and aid the said party of the first part, and his associates, as he may be from time to time advised, in talks and negotiations with the chiefs and other influential men of the said tribe; and in the active application of his whole influence at councils, and confidential interviews, for the purpose of effecting a treaty between the said tribe and the said proprietors, for the extinguishment of the Indian title to the said reserved lands.

“Second. The second party of the second part hath sold, and hereby doth sell, to the said proprietors, all and singular his buildings and im-



provements on the lands so to be released by treaty, and agrees to accept compensation therefor in the manner hereinafter mentioned; said buildings and improvements in the mean time not to be leased nor in any manner disposed of by said party of the second part.

"Third. In consideration of such efforts, co-operation, and services on the part of the said John Snow, faithfully bestowed in the premises, and of the sale and release of all and singular his said buildings and improvements upon any of the lands aforesaid, without leasing or otherwise disposing of the same, as hereinabove stipulated, the said Heman B. Potter, on his part, and that of his associates, agrees to pay, or cause to be paid, to the said John Snow, the sum of two thousand dollars, within three months after notice of the ratification, by the Senate of the United States, of a valid treaty between the said tribes and the owners of the said pre-emptive title, or their trustees, by which the right and title of the said Indians shall be effectually released and extinguished in and to the said reserved lands; subject, however, to the following qualification and understanding: that in case the said treaty shall provide for the payment to individual Indians for their buildings and improvements, then and in that case the said party of the second part shall accept and receive, as part payment of the above-mentioned sum of two thousand dollars, such sum or compensation as he shall or may be entitled to, by and under the provisions of such treaty, for his said buildings and improvements, and the balance of the said two thousand dollars which shall remain, after deducting therefrom such compensation as aforesaid, and that only to be paid by the said party of the first part, as above specified, within the time above mentioned, or as soon thereafter as the said balance can be ascertained; and in case said party of the second part shall be entitled, by and under the provision of said treaty, to the sum of two thousand dollars and upwards, he shall receive the same as may be therein provided, and the said party of the first part shall be discharged from paying any part of said two thousand dollars.

"And the said John Snow shall also be entitled, at a nominal rent, to a lease from the owners of the pre-emptive title, or their trustees, of and for the lot of land actually improved and occupied by him, called the Whipple farm, near the old council house, on the Buffalo reservation, for and during his own natural life, determinable when and as soon as he shall cease to live on and occupy the same; said lease to be executed by the lessors as soon after said treaty as said lands shall have been surveyed and allotted, said lease having reference to said survey.

"This agreement on the part of said party of the first part being expressly dependent upon a treaty to be made and ratified upon terms, conditions, and stipulations to be proposed and offered by the said party of the first part, and his associates.

"H. B. POTTER, [SEAL.]  
his

"JOHN X SNOW, [SEAL.]  
mark.

his

"Witness: GEORGE X JIMESON,  
mark.

"True copy :

"M. B. PIERCE.

"P. S.—Marius B. Pierce, above named, is one of the chiefs who signed the Buffalo treaty."

"Articles of agreement made and concluded this 7th day of August, 1837, between Heman B. Potter, of the city of Buffalo, of the first part, and Samuel Gordon, a Seneca Indian, of the Cattaraugus reservation, in the county of Erie, of the second part :

"Whereas, in conformity with the declared policy of the government of the United States, the proprietors of the pre-emptive title of and in the four several tracts of land reserved by the Seneca tribe of Indians, within the said State of New York, are desirous to induce the above-mentioned tribe of Indians to accept for their future and permanent residence a tract of country in the territory west of the river Mississippi appropriated for Indians inhabiting the Atlantic and other neighboring States, and are also desirous, by fair purchase, to extinguish the right of the said Indians in and to the lands in this State so reserved by them :

"And whereas, in furtherance of these objects, and in order to a future treaty by which to effect the same, the said proprietors have authorized negotiations to be opened with the chiefs and other leading men of the said tribe of Indians, and certain offers to be made to them in money, as a permanent fund for the nation, and a compensation for their improvements, and have also deemed it advisable and necessary to employ the aid, co-operation, and services of certain individuals who are able to influence the said Indians to accept of the offers so to be made to them :

"And whereas the said Heman B. Potter, the party of the first part, is empowered to act on behalf of the said proprietors, and to contract with any individuals whose co-operation and agency may be necessary and efficient in accomplishing the above-mentioned object, and the said Samuel Gordon, the party of the second part, has agreed to contribute his influence and services in the premises :

"Now, therefore, it is mutually agreed by and between the parties hereto, as follows :

"First. The party of the second part undertakes and agrees to use his best exertions and endeavors to dispose and induce the said Indians to adopt and pursue the advice and recommendation of the government of the United States in respect to their removal and future location; and on such fair terms as the party of the first part and his associates, in the name of the said proprietors, shall propose to sell and release, by treaty, their said reserved lands, and on all occasions to co-operate with and aid the said party of the first part and his associates, as he may be from time to time advised, in talks and negotiations with the chiefs and other influential men of the said tribe; and in the active application of his whole influence at councils and confidential interviews, for the purpose of effecting a treaty between the said tribe and the said proprietors, for the extinguishment of the Indian title to the said reserved lands.

"Second. In consideration of such efforts, co-operation, and services on the part of the said Samuel Gordon, faithfully bestowed in the premises, the said Heman B. Potter, on his part and that of his associates, agrees to pay, or cause to be paid, to the said Samuel Gordon, the sum of five thousand dollars, within three months after notice of the ratification, by the Senate of the United States, of a valid treaty between the said tribe and the owners of the said pre-emptive title, or their trustees, by which the right and title of the said Indians shall be effectually released and extinguished in and to the said reserved lands.

"This agreement, on the part of said party of the first part, being expressly dependent upon a treaty to be made and ratified upon terms, conditions, and stipulations to be proposed and offered by the said party of the first part, and his associates.

"H. B. POTTER. [SEAL.]  
"SAMUEL GORDON. [SEAL.]

"Witness: O. ALLEN.

"It is understood and agreed that the sum of one thousand dollars is to be added to the within contract.

"O. ALLEN.  
"H. P. WILLCOX.

"SEPTEMBER 29, 1838."

There are six other contracts of a similar character, which I will not take up the time of the Senate to read. These eight have lately come to light. How many are yet behind, undisclosed, time will tell.

Here, Mr. President, we have a few illustrations, most liberal and honest and patriotic illustrations, of the means used by the agents of this land company, and under the authority of the proprietors, to induce the leading and influential chiefs to sell the lands of their unwilling constituents. Here we see, under the very nose of our commissioner, and at the moment of commencing his negotiation, *ostensibly* for the purchase of their Green Bay lands, the sum of *twenty one thousand six hundred dollars* in cash, besides leases, some for a term of years, some for life, some during occupancy, and one grant in fee simple, offered and promised in writing to eight leading and influential chiefs, by this land company, as rewards, or rather as *bribes*, for serving this company *faithfully*, with their influence, *in council and in confidential interviews with the other Indians, so as to effect a treaty with the government for their Green Bay lands, and so as to effect a release and relinquishment of the Indian title to the proprietors of their reserved lands in the State of New York; and in case of success in these double negotiations, and in the event of their ratification by the Senate of the United States, then these bribes were to be consummated, and not otherwise.*

By these dark and midnight transactions, the order of things was to be cursorily reversed. The *emigrating party* were to stay in New York upon their leases, and the *non-emigrating party* were to be transported beyond the Mississippi. And are these contracts denied? No, sir; they are unblushingly and shamelessly admitted and justified! They are admitted and justified by Seneca White, one of the chiefs in favor of the treaty and of emigration, in his speech to the Secretary of War last August. They are admitted and justified by N. Strong, another chief in favor of the treaty and of emigration, in his letter to the President of the 9th of last March. They are admitted by Orlando Allen, a white man, and one of the active agents of the land company, and justified, in his letter to the President of the 11th of last March. And pray what is the justification?

Mr. Allen tells us, in his testimony, which he communicated to the President last spring, "that he *has understood* (and believes the attempt was never made to conceal it) that provision was made for some of the chiefs, in accordance with all former usages among the Senecas." Yes, sir; Mr. Allen may well say *he has understood* that provision was made for some of the chiefs; for I find this same Orlando Allen, who, under oath, *speaks so doubtfully*, as though by hearsay only, is a subscribing witness to at least two

of these contracts. But, as to his *belief* that there were no attempts made to conceal these contracts—contracts which were for *secret influence and confidential services*—we, of the committee, who have travelled through this whole mass of testimony, will believe just as much of this part of his testimony as we please; and that is precious little of it, if any. While voluntarily furnishing a part of his testimony for the benefit of the President, he would have done but an act of justice if he had given him, in addition, that part of his testimony taken on the same occasion; which was, that he was an agent of the company, and *directly interested* in the success of the treaty. Mr. Allen assimilates these rewards promised and given to these chiefs, in this underhanded and clandestine manner, to the annuity given to Red Jacket, Corn Planter, and others. Sir, there is no similitude in these cases. What was given to Red Jacket, Corn Planter, and to the others he has named, was given in open day, in the presence of the nation, and with the knowledge and approbation of their tribes. But enough of all this, for the present at least.

Sir, the Indians being thus tampered with, and prepared, by bribes in advance, for the occasion, our commissioner entered upon the stage for the performance of his part of the drama. And, sir, not to be tedious, to pass over a thousand details, and to come at once to the result, I will inform the Senate that our commissioner, after a protracted negotiation, did actually succeed in purchasing for us the Green Bay lands. And he got these lands for us for the very trifling and frivolous consideration of \$400,000 in cash, and 1,800,000 acres of land west of and adjoining the State of Missouri. Here is a negotiation for you, which I am satisfied that nothing but patience and perseverance, and skill and dexterity, and adroitness, aided with good friends to “back his suit withal,” ever could have achieved. This \$400,000 in cash, and 1,800,000 acres of land, is all that our commissioner agreed to give for 435,000 acres of land at Green Bay, which, five years previously, we gave these Indians gratuitously, and which gratuity they would neither move to nor accept of us as a present!

Appended to this treaty we find an ordinary deed of conveyance from the Tuscaroras to Ogden and Fellows, of all their title to nineteen hundred and twenty acres of land; and from the Senecas a similar deed of conveyance to Ogden and Fellows of all their title to one hundred and sixteen thousand acres of land, all lying in the State of New York, and some of it in the neighborhood of Buffalo, and making altogether, from both tribes, in round numbers about 118,000 acres of land, for which Ogden and Fellows agreed to pay the sum of about two hundred and eleven thousand dollars—*not quite two dollars per acre*. These deeds are honored with a preamble, and recite the important fact that a treaty had been concluded between our commissioner and these Indians. These deeds are otherwise distinguished by being *approved*, not only by the superintendent of Massachusetts, whose duty it probably was to approve them, but they were also approved of by our commissioner—not as a witness, but in his official capacity; and what is still more remarkable, when this treaty came to the Senate, in 1838, for ratification, these deeds came with it.

Well, sir, what next occurred? The treaty was read in the Senate, was properly referred, and then your committee went to work upon it. They found it so *essentially defective*, that it was out of their power to recommend its ratification. The objections to it were communicated, among others, to the Senators from New York. Some alterations in it were suggested

by the War Department, and all agreed, without a dissenting voice in any quarter, so far as I recollect, that it could not be ratified in the form in which it was executed. We amended it, and so thoroughly as to make nearly a new treaty out of it; and in these amendments the Senate concurred, and I believe with unanimity.

While this treaty was before the committee, we heard many complaints from the Indians and others against the treaty. Fraud, unfairness, and bribery, of which *at that time* we had no evidence, were charged; and it was stated that a majority of the chiefs neither approved of nor had signed the treaty, although from the preamble it purported to have been executed in council, and properly assented to. To guard these charges, the Senate adopted the resolution of the 11th of June, 1838, which was recommended by the Committee on Indian Affairs, and which is as follows:

"Provided always, and be it further resolved, (two-thirds of the Senate present concurring,) That the treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or bands of New York Indians, nor shall it be understood that the Senate have assented to any of the contracts connected with it, until the same, with the amendments herein proposed, is submitted, and fully and fairly explained, by a commissioner of the United States, to each of said tribes or bands separately assembled in council, and they have given their free and voluntary assent thereto; and if one or more of said tribes or bands, when consulted as aforesaid, shall freely assent to said treaty as amended, and to their contract connected therewith, it shall be binding and obligatory upon those so assenting, although other or others of said bands or tribes may not give their assent, and thereby cease to be parties thereto. *Provided further,* That if any portion or part of said Indians do not emigrate, the President shall retain a proper proportion of said sum of four hundred thousand dollars, and shall also deduct from the quantity of land allowed west of the Mississippi such number of acres as will leave to each emigrant three hundred and twenty acres only."

Thus it appears that we sanctioned the treaty of the 15th January, 1838, on the express condition that the treaty, as amended by us, should be approved of by a majority of the chiefs of each tribe separately assembled in open council, and after it had been by our commissioner fairly and fully explained in open council, and by a majority of them freely and voluntarily assented to in open council.

Well, sir, what next? With the treaty, as amended, our commissioner was once more despatched to his red brethren, with whom he had previously been so very successful, to obtain their assent to the treaty in its amended form. He received his instructions on the 9th of July, 1838, and was at his post in the month of August following. He succeeded in obtaining the assent of all the tribes but the Senecas. These he found, as usual, a little refractory. He met them in council on the 17th of August, in a council-house he had built for the purpose; and as many of the chiefs were absent, he, at the request of the Indians, adjourned the council for three days. On his return on the 20th, he found his council-house burnt down—the work of an incendiary. He built him another, and then fully and fairly explained the treaty and the amendments made to it by the Senate. He found the Senecas decided, not upon the subject of selling us the Green Bay lands, but upon the subject of emigration, which to us was a matter of no



consequence. He gives us the decisions in the tribe in a very minute and satisfactory manner. He then tells us that

"It will be recollected that at the time of making the original treaty, providing new homes for these Indians at the west, and the means of removing and subsisting them, another treaty was signed between this tribe and the pre-emption owners, under the supervision of a superintendent from Massachusetts, conveying the Indian rights to their several reservations in New York. That treaty of sale was ratified by the governor and council of Massachusetts. At the late council, it was the sale under this treaty, and not the advantages secured under the one negotiated by me, that formed the principal subject of consideration. The government treaty was generally conceded to be liberal and advantageous; still there appeared to be a settled purpose on the part of some to misrepresent the value of the advantages secured under it, as one means of defeating the other."

Here, Mr. President, we have the whole story, fresh, full, and complete, from the lips of our frank and candid commissioner. *It was the sale to the land company*, brought about, as I have shown you, by bribery and corruption, that has occasioned the failure of our commissioner in perfecting, from this tribe, the purchase of their Green Bay land. Our treaty, he tells us, was considered liberal and advantageous, and with it no fault was found; and I confess it would have been passingly strange to me, if there had been any objections to it.

And now let me ask, if our *real* object had been to purchase the Green Bay land, why was our treaty embarrassed by negotiating with them for their removal beyond the Mississippi? Why not let them remain? they are not in our way. We are not bound in any manner, that I know of, to purchase their lands for these pre-emptioners. What have they done for "the State," that we should give them a million or so of dollars, in cash and land, to aid them in their speculations? Sir, our commissioner desired honor, and glory, and promotion; and he was taught to believe, and no doubt truly, that if by negotiation he could succeed in getting those Indians out of New York and over the Mississippi at the expense of the United States, glory, and honor, and promotion would be his reward.

Sir, the Green Bay lands, if ever the subject of *serious* discussion at any time, were all along considered but a trifling matter with either the Indians or our negotiator. But I proceed; for I have yet, sir, a good deal of ground to travel over.

The commissioner tells us, that, "at an early period of the council Marius B. Pierce, then an opponent of the treaty, in public council, proposed to me the following questions:

"1. If the amendments of the treaty were not now assented to, whether I could adjourn the council; and whether, if not adjourned, it could be again convened?

"2. Whether the Senate could recede from its amendments?

"I was also asked, at about the same time, by others in council, whether the deed to the pre-emptive purchasers, being ratified by the governor and council of Massachusetts, was obligatory upon the nation, without further action on the part of the nation? Also, whether the Senate of the United States had any legal jurisdiction over the subject?"

To those questions the commissioner declined giving any answer; and as he has not condescended to tell us why these questions were asked, I will endeavor to supply his omissions, as I feel myself able to do, from the testi-



mony before us. The first question was asked because the opponents of the treaty then had a majority in council against the treaty, and were able to vote it down, and he was apprehensive that the commissioner might keep adjourning the council from day to day, until a majority might be got *in some way or other* to assent to the treaty. He and his friends were then neglecting their private affairs; were poor, without money, and depended their bread upon their daily labor. They wanted to see the council closed, that they might go home; they were unwilling that the council should be kept open any longer, or convened again after it was closed. These were Pierce's reasons for asking the first question.

He asked the second because he had been told, as an inducement for their agreeing to the treaty, that the Senate would, *if necessary*, recede from its amendments, and that the treaty would be ratified as originally made; and then, in that event, they would lose the *rewards and life leases, &c.*, which they then had it within their power to obtain from their friends, the generous and liberal minded pre-emptioners.

The third question was asked because they were told the New York land was gone at any rate; that their deeds had been approved by the governor and council of Massachusetts. The commissioner also declined answering this question; but afterwards, "learning that General Dearborn had expressed a *different opinion*," (from that expressed by the head of the Indian bureau, and by Mr. Ward, a clerk of that bureau,) "I informed the council of it, and General Dearborn gave Governor Everett's reasons for his opinions. The Indians were then left to form their own conclusions on the question of title and probable action of the Senate. *I then informed the Indians that, if the interests of the Indians required it*, I believed I had the right, and should adjourn the council to some future day." Yes, sir; and he did adjourn the council. The opinions of Governor Everett respecting the validity of the sale produced this result. The pre-emptioners could no longer frighten them "with the scarecrow" that their lands were gone. This being the case, it became necessary for the pre-emptioners to change their mode of attack; and time was necessary to agree upon the *modus operandi*, and therefore the council was adjourned.

The next entertainment we have of the commissioner is as follows:

"Learning from the discussions in council that many desired to remain longer than five years on their reservations, I induced the agent of the pre-emptive owners, on the 26th of September last, to authorize me in writing to say to the council that he would, on behalf of the pre-emptive purchasers, agree to allow them to occupy their farming lands ten, instead of five years. His proposition is marked No. 30. This offer did not, as *was anticipated*, produce unanimity of feeling. Some said it was their desire to remain for their lives; but that they were willing others might remove if they chose to do so. In connexion with General Dearborn, I requested the agent to offer life leases, free of rent, to all who chose to remain. His offer to do so is marked No. 31. Without consulting with a single individual, a chief in the opposition by the name of Israel Jemison rose and stated that he was authorized to say that the opposition *unanimously* declined the proposition. Knowing that no one had authorized him to speak on a subject but that moment named in council, I did not consider his statement entitled to any respect. No one of the opposition rising to set him right in such a case of palpable falsehood, I became satisfied of the truth of the allegation so often

made, that many *dare* not speak their minds in council, and that compulsion was used to prevent chiefs from signing."

He talks of *fear* and compulsion. Why should they fear? Why should Indian warriors manifest a timidity which, in a virtuous cause, would disgrace even their squaws? They fear because they are in a minority, and know they are doing, *from base and mercenary considerations*, what a majority of their people disapprove of. Their fear is but the palpable evidence of a guilty heart! An honest man, red or white, fears nothing! Cowardice and trembling are the attributes of a guilty conscience!

He tells us that,

"Immediately after communicating and explaining the offer of life leases to all who desired them, I presented the manuscript copy of the amended treaty, to which I had attached a written assent. I informed the council that those who chose to do so could sign it there, and those *who, from fear, or other cause, preferred signing at my room in presence of myself, the superintendent from Massachusetts, the agent, and such other persons as might be present, might do so.* I then received sixteen signatures, and subsequently at my room, in presence of General Dearborn, thirteen, and two other signatures at the rooms of chiefs who were too unwell to attend council; making in all thirty-one chiefs."

Yes, sir; with all the bribery I have previously alluded to, with *life leases, free of rent, for all who chose to stay, embracing the whole tribe, we yet find the commissioner unable to get, in open council*, as he was required to do by the resolution of the 11th June, 1838, but *sixteen signatures of assent*, out of eighty one, to the amended treaty; and, in addition to these sixteen, he obtained afterwards, *not in council, but at his private lodgings*, the signatures of assent of thirteen more, and at *their own residence* the signatures of two others; making, in all, but thirty-one, obtained, as before stated, out of eighty-one chiefs belonging to the Seneca nation. Finding this to be the case, he then, on the 2d of October, after laboring, if not praying and fasting, for upwards of forty days in the wilderness with the heathens, informed the *agent of pre-emptioners, (not the Indians with whom he was negotiating)*—

"That he should adjourn the council, as there seemed to be no more disposed to sign the assent. A question having been raised, (he tells us) whether the assent had been sufficiently signed or not, (that is, whether thirty one, if there had been no objection to the *manner* of obtaining their signatures, was a majority of eighty-one,) he (the agent of the land company) desired me to adjourn to a future day, and that in the mean time I could report to you."

He adjourned the council to the 15th of November.

"I read them a talk, which is marked No. 39. The Indians who are opposed to emigration did not object to this adjournment; and, in making it, I did what I thought due to them and to the *purchasers*. If the assent is not sufficiently signed, it may be done at a future day, and the emigration party, who have listened to the advice of the government, may be saved from the oppression which would otherwise await them. If there were not signatures sufficient to meet your approbation, and it should turn out that the legal title is in the purchasers, then the condition of the Senecas would be deplorable. They would be without a home, though one had been freely offered to them."

Poor Senecas! how stubborn and stiff necked they are! Why will they not listen to the pathetic advice of the government, so eloquently delivered,

and save themselves from oppression? Why will they not see that if it should so happen that the title to their lands is vested in the purchasers, how deplorable will be their condition? Why will they not see (what no one else but the commissioner could perceive) that if the treaty should not be assented to they would be without a home—without even their Green Bay lands, which they refuse to sell us? What insanity! How unreasonable they are in desiring to retain their ancestral homes and firesides! How cruel and hard-hearted they are in refusing to gratify the *humane* and *benevolent*, and *Indian loving*, and *God serving pre-emptioners*! Oh, Senecas! Senecas!! how you astonish your gray-headed fathers of the Senate!

Mr. President, we now find our commissioner laying aside his poetry and his predictions, and talking mathematically. After stating the number of chiefs who signed the treaty, and their *manner of signing it*, he then puts the question to the Secretary of War to know if it be necessary to have the assent of all the chiefs upon the reservation.

"If so, [he says] it was not sufficiently signed *in my presence*. [And he might have added it was still *less sufficiently in open council*, as it was required to be done by the Senate's resolution.] If not, need it be signed by more than a majority of all who at any time attended the council? [He then reminds us of what we would not otherwise probably have thought of—that this is what is usually required in legislative bodies; and reasoning from analogy, the assent is sufficiently signed.] If it requires a majority of all who may have been from time to time, for short periods, at council, it is not in my power to give you the necessary facts whereon to decide."

Now, sir, our most worthy commissioner (who is an ex-member of Congress, and who, on that account, should be presumed to be familiar with the proceedings of deliberative bodies, has lost sight of one very important point in his analogy; which is, that the official acts of members of Congress out of their respective houses (*alias* the councils) are nugatory. Does he not know that if members of Congress were to sign their assent to the passage of bills, or if Senators to the ratification of treaties, at their private rooms or lodgings, as this Indian assent (in part) was signed, it would be nugatory, nonsensical, and unconstitutional? I leave the question to himself to answer. Speaking of analogies, I will go a little further; and as he has said it better than I can say it, I will avail myself of the remarks of Governor Everett upon this subject:

"The treaty-making power [says the Governor] is granted by the constitution in general terms. No modification of its exercise in reference to Indian tribes is recognised, as it would certainly be unconstitutional for the President of the United States to attempt to treat with individual members of any foreign State or government, (not duly authorized to represent such body,) or to attempt to obtain the ratification of a treaty by means of the assent of individuals of the Senate, not duly assembled and acting as such."  
 "I remain of opinion that the constitutionality of attempting to obtain the assent of individual Indian chiefs to the amended treaty in the manner in question is doubtful."

Sir, were ever these old, safe, rational, and salutary rules dispensed with by our government in treating with any nation, foreign or domestic, civilized or savage? I know of no dispensation of those time-honored and customary forms in any case whatever. I hold, that if it be necessary to treat at all, we should treat according to the ordinary and constitutional forms.

The commissioner concludes his report by telling us, what we could well

have imagined, that all the expenses of the amended treaty had been defrayed by the United States; and thinks if any further expenses are to be incurred, the pre-emption purchasers should pay *their part of it*. He ought to have said the *whole of it*, as it would all be for their private benefit.

The report of General Dearborn to Governor Everett corresponds, in the main, with that of Mr. Gillet, and therefore I shall not be considered, I hope, as treating that able State paper with disrespect, if I dispose of it very briefly.

General Dearborn tells us that

“Among the numerous and very cogent reasons which were urged by the commissioner for inducing the Indians to assent to the amended treaty, during the progress of the long protracted deliberations, he observed that he had been directed by the officer at the head of the bureau of the Indian department to state, as his opinion, that the contract of the Indians for the sale of their right of possession to the Ogden company was complete, and might be carried into effect, whether the treaty with the United States was ratified or not.

“As this was the only statement made by the commissioner to which I did not fully concur, I informed the chiefs it became my duty to announce to them that the governor of Massachusetts entertained a different view of the subject; and was authorized to state, that unless the amendments made to the treaty were assented to, he considered the contracts for the sale of their right of possession null and void, but that he did not undertake, peremptorily, to decide a question of such great importance; that it was one which required the most grave and deliberate consideration, and must ultimately be referred to the highest judicial tribunals of the country, if it should be insisted on by the pre-emptioners.

“It was, therefore, for the chiefs to determine how far their decision was to be influenced by the doubtful position in which the subject was placed, from these conflicting opinions; for if they should reject the treaty, and the contracts for the sale of their reservations were declared binding, they would be left without a home.”

This disclosure needs no comment. The unfairness and reprehensibility, on the part of the commissioner, of the use of such terrible and unsound arguments to the ignorant Senecas, is obvious to all. The General also tells us that

“The commissioner was induced to afford the last named accommodation in consequence of having been informed that there were several chiefs who were in favor of emigration, but were afraid to sign the treaty publicly, as they had been threatened with fatal consequences if they did. Intimidation has been extensively used by the leaders and their partisans in the opposition, for the purpose of defeating the wishes of those who are desirous of removing to the west. The commissioner was informed by the chiefs of the Tuscaroras that threats had been sent to them from the Tonawanda reservation, to deter them from ratifying the treaty.

“It had been repeatedly represented, during the last council and the present, that there were a number of Indians, and especially among the aged, who were desirous to remain here, and who often observed: ‘Let the young go to the new country, beyond the great river, if they wish, but we are too old to begin new establishments; we had rather live and die where we have so long resided, on the land of our fathers.’ To obviate this objection, to the ratification of the treaty, the commissioner recommended to

the pre-emptioners that they should offer to give leases for life, free of rent, to such Indians as were anxious to remain, and I concurred in opinion as to the propriety of that measure, believing that it would not only be just towards the Indians, but considered as beneficent, magnanimous, and liberal on their part, let the result be what it may; that I considered it important it should be done in open council, and made general in its operation, to preclude every ground of complaint or misrepresentation.

"The pre-emptive agents having been finally induced to adopt that measure, a communication was made to the commissioner for carrying it into effect, which he laid before the assembled chiefs immediately after he had concluded his remarks on the method in which the assent was to be given to the treaty.

"One of the chiefs, in behalf of those in the opposition, then rose and stated that they did not desire to avail themselves of the offer which had just been made by the pre-emptive owners; and observed that they wished the council might be kept open after those had signed the treaty who were present, as they desired to execute, in the presence of the commissioner of the United States and superintendent of Massachusetts, a written declaration of their dissent. The commissioner replied that he was not authorized to authenticate any document other than such as he had been specially directed to submit for their consideration, and therefore could not with propriety keep the council open for the purpose which had been stated.

"I was then reminded by another chief of the opposition party that I had informed them on the opening of the council, although I was not instructed to advise them either to remain where they were, or to emigrate to the Indian territory in the west, I had been sent there by the governor of Massachusetts to see that impartial justice was done to the Seneca nation of Indians; and that I had observed, on another occasion, I should not be deterred by the flash of the tomahawk or the crack of the rifle in the independent and honest discharge of my duty; and as I should be a witness to such of the chiefs as were in favor of emigration, who signed the treaty, 'MY HEAD WOULD NOT BE STRAIGHT' unless I also verified their proceedings; and then asked me if I would remain for that purpose.

"I answered, that I considered it my duty to comply with all proper requests from any portion of the Seneca Indians, so far as it was in my power to do so; that I should, with great pleasure, remain and witness the signatures to the declaration which it was proposed to execute after the commissioner of the United States retired from the council house.

"As many of the emigration chiefs were absent, only sixteen names were affixed to the treaty, in council, on the 28th ult.; and immediately after the adjournment the written declaration of the chiefs opposed to emigration was produced and signed in my presence."

Here we find that our commissioner refused to receive the list of the names of the dissenting chiefs, or what they called their protest, which was tendered him *in open council*. But General Dearborn, who is a military man—a man of mettle—who is not, as he informs us, to be "deterred from a faithful discharge of his duty by the flash of the tomahawk or the crack of the rifle," did receive and witness this dissent, or protest; and he forwarded it, according to the request of the Senecas, to Governor Everett. This protest contained the names of *sixty chiefs*, out of eighty-one, and is to be found in our printed document, at page 174. Here ends my review of the reports of Messrs. Gillet and Dearborn upon their first embassy. They



had another, which I will briefly dispose of; but, before doing so, it will be necessary to notice the official action of the head of the Indian bureau upon our commissioner's report. Let us now see how Mr. Crawford viewed this matter. Mr. Crawford says, in his letter to the Secretary of War of the 29th of October, 1838—

“The only difficulty in the way of regarding the acts of the Indians as meeting the resolution of the Senate, that appears to me insuperable, concerns the assent reported to have been given by the Senecas. There are in this band seventy-eight chiefs. The assent of sixteen was obtained in council, of thirteen at the room of the commissioner, and of two others at their own quarters, making thirty-one; and since the arrival of Mr. Gillet in Washington, he has received the written assents of five more, properly authenticated; making an aggregate of thirty-six. The commissioner reports that not more than sixty-one chiefs attended the council at one time, and that thirty-six is more than one-half the number of chiefs that probably gave their attendance in council at all the meetings: two of the chiefs, it is said, hold a questionable authority, and two have removed from the country. Is this an assent of the tribe by the chiefs? The authority of the band resides in *all* the chiefs; and although uniformity in their views can scarcely be expected, at least a majority of the chiefs, not of those who appeared in council, but of all upon the reservation, it strikes me, should consent, to constitute the ‘free and voluntary assent’ of the tribe. Deduct the two who, it is represented, exercise a doubtful authority, and the two who have removed, and seventy-four chiefs of the Senecas remain, of whom, including the five whose assents were not attached to the modified treaty, but transmitted by mail, and we have thirty-six only. The last five, in my opinion, cannot be reckoned; but I have not noted more particularly the defective manner of their assenting, because it was, in the view taken, unimportant. Perhaps, too, it was intended by the Senate that they should consent in council. Mr. Gillet states in his report that a printed copy of the treaty and amendments was handed him, to which were affixed the signatures of thirty-five chiefs and one hundred and seventeen warriors, declaring their assent thereto. *This writing is dated six days before the assent in council was obtained, preceded, as I presume, by the full explanations of the commissioner; and although witnessed by James Stryker, United States sub-agent, and H. P. Wilcox, and no doubt fairly obtained, (for it embraces the names affixed to the assent prepared by Mr. Gillet, and four additional ones,) can scarcely, it seems to me, be considered as within the intent of the Senate.* If, however, you should think differently, the four chiefs added to the whole number first mentioned would give forty assenting chiefs out of seventy-eight. Even if the legal right was as clear the one way as it appears to be the other, would it be expedient to act upon it? The Senecas are evidently divided into two very nearly equal parties—the one for, and the other against the treaty—splitting on the subject of emigration, which is much to be regretted. Their own true interest and the liberal views of the government they do not comprehend; and however desirable it is that they should leave New York, which would be the probable but *not the necessary consequence of the ratification of the treaty*, one-half of them appear to be otherwise determined for the present. The report and accompanying papers show that much excitement prevails among them on the subject, and make it too certain that but for bad advice they would accede to the proposed terms, which perhaps a renewed application might find them willing to do.



For this last purpose the door is still open, as the council was adjourned to the 15th of November next."

This letter of Mr. Crawford construes, and *properly construes*, the Senate's resolution of the 11th June, 1838. Having submitted his letter to the Secretary of War, containing his opinions, &c., the Secretary advised upon the subject, and gave Mr. Crawford instructions for *future operations*, and these instructions Mr. Crawford embodied in his letter to Mr. Gillet of the 30th of October, 1838, and which is as follows, viz :

"SIR: Your report and the treaty with the New York Indians, assented to as amended in the Senate of the United States, have been submitted to the Secretary of War. He is of opinion that the consent of a majority of *all* the Seneca chiefs must be obtained; but that, as you have heretofore met the requirement of the Senate, by full explanations to them in council, you may proceed to the Seneca reservations, *and there obtain the assent of such Indians as have not heretofore given it.*

"You are, accordingly, authorized and requested, at your earliest convenience, to proceed to the Seneca reservation in New York, and to carry out the above views. Your service among the people qualifies you fully for the discharge of this duty, and gives assurance of its fair, honest, and capable performance.

"Very respectfully, your most obedient servant,

"T. HARTLEY CRAWFORD.

"HON. R. H. GILLET, *now at Washington.*"

Here we have, sir, what I consider a false step in this negotiation, which was not warranted by the resolution of the 11th of June, 1838, nor sanctioned by usage or sound policy, in making treaties with any nation or Indian tribe whatever. Here, sir, is the red book, which contains all of our Indian treaties from the earliest period to the present day, and I boldly challenge any Senator to show me in it a single treaty ever made by us with an Indian tribe, which was not made with them *in council*, or else by delegates duly authorized by the council to make such treaty. Sir, the McIntosh treaty, which was made at the Indian Spring, in Georgia, forms no exception to the principle I have here laid down. That treaty purported to have been made *in council*, and to have been assented to by a majority of the chiefs, and to have been agreeable to a majority of the Creeks. These important, and leading, and controlling facts were *vouched for* and *asserted* by our commissioner, on that occasion, in his report. Relying upon the truth of that statement, the Senate *ratified that treaty*; and what followed? McIntosh was murdered, and his followers were driven, for refuge and safety, out of the Creek nation into the white settlements. President Adams refused to carry that treaty into effect; and, at the following session of Congress, laid the *facts* of that treaty before the Senate; and what did the Senate do with it? The Senate investigated it, and, finding it had been made by a *minority* of the chiefs, and by bribery and unfair means, the Senate declared it *null and void*; and yet, sir, with a knowledge of the proceedings of the Senate upon that treaty, we find, by Mr. Crawford's instructions to Mr. Gillet, which I have just read, that our commissioner was authorized to proceed, for a third time, to the Seneca reservation, and there obtain "the assent of such Indians as had not heretofore given it."

This mode of hunting up Indians, and of getting their signatures *out of council*, in the woods, or anywhere, wheresoever they may be found, seems

not to have been very cordially approved of by General Dearborn; and upon ascertaining this fact, we find Mr. Crawford addressing another letter to Mr. Gillet, of the 19th of November, 1838, in which he says: "The instructions given you when here, it seems to me, *would justify your assembling of the Senecas, should you deem it necessary.* But to remove any doubt, I am directed by the Secretary of War to say that if General Dearborn desires it, you are authorized, at your discretion, to hold such council."

Here we find it a *matter of doubt* whether Mr. Gillet's instructions would authorize him to convene a council, and it is stated that *he is not to convene the council unless General Dearborn should desire it, and not even then unless at his discretion.* And he never did convene the council, although it will be remembered that, on the 20th of October previous, the commissioner had not closed the council which he was then holding, but had publicly adjourned it to the 15th of November. This public pledge, which we find *studiously violated*, seems to have given the parties concerned in it no sort of uneasiness, or to have needed any sort of apology. This violation of a public pledge by a duly authorized commissioner is justified, though not avowed, on the ground, I suppose, that we are not bound, according to modern ethics, to keep faith with heretics or infidels; and we are called upon, as the high priests of the United States, on the alleged but fallacious pretext of *expediency*, to endorse this code of morality.

Mr. Gillet says, in his report upon this mission, that "*he visited such places on the reservations as he was desired to by any of the chiefs.* Eight of the signatures were received at *his room, in Buffalo*, one at his former lodgings at Buffalo creek, and one at the residence of the sub-agent." These ten, added to the thirty-one before received, make forty-one, altogether, which is a majority of one, and then he insists that the treaty had been assented to: if not according to the resolution of the Senate, it was assented to according to the instructions of the War Department.

General Dearborn's report in the main varies but little from that of Mr. Gillet. He states, however, that he thought there ought to have been a council, but seems to have acquiesced in the other mode, as Mr. Gillet showed him the instructions he had received of Mr. Crawford of the 13th of October, by which he considered himself *prohibited from calling a council.* It is denied that Mr. Gillet said any thing to General Dearborn about his *subsequent instructions* of the 12th of November, 1838. As Mr. Gillet no doubt intended to avail himself of the *discretion these instructions gave him*, and finding the pliant New Englander acquiescing in his views of expediency, he never did inform General Dearborn of those instructions. General Dearborn, in his letter to Governor Everett of the 19th January last, says he *never saw or heard of the instructions of Mr. Crawford to Mr. Gillet of the 12th of November, 1838*; and yet the credulous General, after he had found out the existence of such *secret instructions* some time after the negotiation was ended, and after the whole proceedings were published, seems to take no offence at the circumstance, but states that he believes (a belief, to say the least of it, which shows on his part a marvellous credulity) that his not seeing those instructions was *undesigned and accidental.*

Mr. Crawford, in his letter to the Secretary of War of the 15th of January, 1839, upon the subject of the last reports of Mr. Gillet and General Dearborn, says:

"That ten additional assents had been obtained, but that two of which

are not manifested by the *party appearing and signing in person*. The reasons given for their not appearing and signing in person the treaty as modified are, that *one of them was absent*, and the other prevented from doing so by the acts of chiefs opposed to the treaty."

These are important details, and are not to be found in the printed report of Mr. Gillet, before whom these transactions occurred, and which probably accounts for the fact that several of the chiefs, whose signatures appear to the treaty, deny ever signing or assenting to the treaty, or of *authorizing any other person to do so for them*. I say important, because it will be observed that those two signing by attorney constitute what is claimed as a majority of the chiefs. Mr. Crawford concludes his letter by submitting the treaty, signed in the manner we have seen, by forty-one chiefs, for the consideration of the Secretary of War.

The Secretary of War reports upon this treaty to the President, of the 19th January, 1839, and recommends the President to submit it to the Senate. Here let me remark that the President is authorized by the terms of the resolution of the Senate of the 11th of June, 1838, to promulge this treaty without again consulting the Senate about it, *whenever* he is satisfied that it has been assented to according to the true meaning and intent of the resolution of the 11th of June, 1838. The President deemed it advisable, for reasons set forth in his message to the Senate of the 21st January, 1839, not to promulge this treaty, but he submitted it again for our advice. By doing so he has shown that our confidence had not been misplaced. He has shown most abundantly that though he appreciated the wishes and interests of New York and of Massachusetts, he was at the same time not disposed to gratify even those two powerful States at the expense and sacrifice of the just claims of even a small fragment of wretched and miserable Indians. He had the power to speak but a single word, and close up this controversy forever. But, sir, he wisely preferred adhering to the immutable and eternal principles of justice, to the pecuniary gains of Massachusetts or New York. He preferred preserving, with scrupulous fidelity, our national character, and honor and honesty, to the contemptible spoils and laurels which might be gathered in triumphing, by forced and unlawful means, over a handful of ignorant savages. Sir, he resisted importunities and refused to promulge the treaty, and sent it back to the Senate, to his impartial constitutional advisers, for their consideration. And how did the Senate dispose of it? Let the report of the Committee on Indian Affairs of the last session, and the resolution of the 2d of March last, founded upon that report, answer the question. What is the resolution of the 2d of March?

"Resolved, That whenever the President of the United States shall be satisfied that the assent of the Seneca tribe of Indians has been given to the amended treaty of June 11, 1838, with the New York Indians, according to the true intent and meaning of the resolution of the Senate of the 11th June, 1838, the Senate recommend that the President make proclamation of said treaty, and carry the same into effect."

Sir, we adopted that resolution for the purpose of giving the parties interested another opportunity, which they desired, to get the treaty assented to by the Senecas. This was done on the 2d of March, the day before we adjourned the last Congress.

On the 7th of that month, four days after the adjournment, and before

the treaty we had thus disposed of had left the Secretary's office, so far as I know, but certainly before it had left the War Department, we find Nath. T. Strong, a Seneca chief, in a letter to the President, misrepresenting the views and proceedings of the Senate upon that treaty, and urging him to ratify it. On the 9th of March we find Mr. Allen, the agent of the land company, of whom I have before spoken, in his letter to the President urging him to ratify the treaty, which the Senate had refused to do but seven days before. He furnishes the President the same list of chiefs we had had before us, which he contended was a majority of the Senecas.

On the 11th we find Mr. Wilcox, another prominent individual throughout the whole of this long protracted negotiation, in his letter to the President, urging him to ratify the treaty, and endorsing the truth of Allen's statement relative to the number of chiefs.

On the 11th we find Mr. Stryker, the sub agent, in his letter to the President, furnishing a list of the chiefs with the same view.

On the 4th of April we have a letter to the President from the Ogden Land Company, with the same view: and on the 6th of March, two days after we adjourned, we find that two of our brother Senators, Messrs. Tallmadge and Norvell, furnished to this same Mr. Allen, for the purpose of showing (what they no doubt believed, and for which I attach no blame) that the requirements of the Senate, by the resolution of the 11th of June, 1838, that the treaty should be assented to in open council, were dispensed with by the resolution of the 2d of March. I can only say that that was not my understanding of the resolution of the 2d of March. What is that resolution? The resolution of the 2d of March authorized the President to make proclamation of the Seneca treaty *whenever* he should be satisfied that the amended treaty had been assented to *according to the true intent and meaning of the resolution of the 11th June, 1838*. And how was that resolution of the 11th of June construed? Let the report of the Committee on Indian Affairs answer. And how was it construed by the *commissioners* and by the War Department, until it was found *expedient for them to give it a different construction*? Let the history of this negotiation, which the published documents fully furnish, answer the question. How was it construed by the President? Let his message of the 14th of January last answer the question.

Construing these resolutions as we did, the President refused to promulge the treaty, notwithstanding all the efforts made to induce him to do so. He despatched the Secretary of War last August to Buffalo, for the purpose of submitting the amended treaty to the Senecas, containing the views of the Senate, as reaffirmed by the resolution of the 2d March. He convened a council for this purpose; and what was the result? The Secretary has given us nothing but the speeches of himself, of General Dearborn, of the agent, and of the Indian chiefs, for and against the treaty. But the President, in the message of the 14th of January last, transmitting this treaty again, and for the third time, to the Senate for *ratification*, has given us the result of the Secretary's negotiation in *three italicised lines*, (*multum in parvo*;) which is, that "*no advance towards obtaining the assent of the Senecas to the amended treaty, in council, was made, nor can a majority of them in council be now obtained.*"

I have now, sir, endeavored to give the Senate a full and impartial, though I fear a tedious history of what I consider the important points of

this whole matter from the beginning up to this day; and in doing so I have based my statements upon the official published documents emanating from the public agents and officers of the government. I have not relied (because such testimony, however unjustly in some instances, might be cavilled at) upon Indian statements and Indian affidavits. Nor have I relied for any thing I have said upon the written statements of the Quakers, who are viewed by some gentlemen as officious intruders and intermeddlers in this affair; not because I do not consider their statements as entitled to the fullest belief, but because I have not found such reliance necessary.

Now, sir, having wholly failed, after two years of expense and trouble, of trials and tribulations, backed by the potent influence of New York and Massachusetts, and of the *active members* of the land company and their *rewarded* chiefs, to obtain, in open council or otherwise, the voluntary assent of a majority of the Seneca chiefs to the very liberal treaty we are now *considering*—a treaty by which we agree to give to the Senecas, for their part of the Green Bay lands, their portion of the \$400,000 in cash, and their portion of the 1,800,000 acres of land west of the State of Missouri—having failed in all this, what shall we do? Shall we throw our treaty in the fire and *take by force* what we have been unable to accomplish by negotiation? It is a grave question for the Senate to decide. If history is to be credited, it is not an unusual occurrence for the weak and helpless to be robbed and preyed upon by powerful civilized communities *professing* Christianity. Sir, when Cæsar demanded the public treasure of Rome, he scorned the production of any other warrant than his sword. And if we *really* want the lands of the Senecas for our masters—for this huge and overgrown land company—we have but to use a similar argument, and no doubt it will be attended with similar success. Sir, if we decide upon such a step, let us accomplish our purpose in the bold spirit of the valiant highwayman, and not by the trick and trap, the shuffling and legerdemain, of a spurious treaty. If we have determined to give up our honesty, I hope we shall at least preserve our reputation for courage.

By a census of the Senecas which has been furnished us, it appears that not only a majority of the chiefs, but also about fourteen-fifteenths of the whole population, are against the treaty and opposed to emigration. This proportion we find existing now among them after all the influences I have before alluded to have been brought to bear upon them for upwards of two years: and, sir, what is more, after endeavoring, in addition to all this, to *starve them into submission* by withholding from them, until late in the summer of 1838, their annuity of 1837. I will read to the Senate for their information the letter of Mr. Harris of the 14th of March, 1838:

“WAR DEPARTMENT,

“Office of Indian Affairs, March 14, 1838.

“SIR: In regard to the inquiries contained in the honorable Mr. Marvin’s letter of the 2d instant, referred by you to this office for a report, I beg leave to observe that it is known here that the Seneca annuity for 1837 has not been paid. Remittances were made for the purpose in June last; but owing to various causes, among which were the absence of an exploring party to the west, *the pendency of a negotiation with the New York Indians*, and the engagement of the disbursing agent in the suppression of the hostile movements on the Canada border, the payment has not been made. *The*



*sub-agent, now here, informs me that it is not desirable it should be made until the return of the delegation now in this city.*

"Very respectfully, your most obedient servant,

"C. A. HARRIS, *Commissioner.*

"Hon. J. R. POINSETT,

"*Secretary of War.*"

Sir, the Indians now are, as they have been from the beginning, agitated, excited, and unhappy about this treaty; and I now hope that on this day the Senate will quiet their agonizing apprehensions by finally disposing of it—by ratifying or rejecting it.

I had thought the treaty an advantageous one to the Indians. I think so still. But I am not disposed to force upon them a measure, though calculated, as I believe, to redound to their advantage, which they *literally* *abhor*. Whenever they may manifest a disposition to go westward, I for one will be willing to give them a home. But, in any future treaty we may have with them, should this one be rejected, I hope we shall have nothing to do with the Massachusetts land company. Let this company extinguish their right of occupancy themselves. And I here call upon those Senators who are so opposed to monopolizing companies and corporations—so averse to paying State, or company, or corporation debts, with public money or public lands, for objects of State or company purposes *exclusively*—to stand by me on this trying occasion, and prevent such a conversion of the public treasure to such unworthy purposes—to local purposes, in which we have not a shadow of interest.

We have had before us a great mass of testimony (*ex parte* always) upon both sides, criminating and recriminating each other. We have looked over it all; and we of the committee congratulate ourselves upon being able to make up our minds upon the merits of this treaty from the fullness of our official documents, without relying in any great degree upon this *ex parte* testimony.

I conclude, Mr. President, by expressing the hope that the Senate will adopt the resolution reported by the Committee on Indian Affairs, which is a resolution to reject the treaty.

---

D.

*Resolution by the Senate—Treaty with the New York Indians—Protest of Tonawanda chiefs, &c.*

*Resolved, further, (two-thirds of the Senators present concurring,) That the Senate advise and consent to the ratification of the supplemental article to the treaty concluded at Buffalo creek, in the State of New York, January 15, 1838, which was made at the council house of St. Regis on the 13th day of February, 1838: Provided, The chiefs and headmen of the St. Regis Indians residing in New York will, in general council, accept of and adopt the aforesaid treaty, as modified by the preceding resolution of ratification.*

*Provided always, and be it further resolved, (two-thirds of the Senate present concurring,) That the treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or bands of New York Indians,*



nor shall it be understood that the Senate have assented to any of the contracts connected with it until the same, with the amendments herein proposed, is submitted, and fully and fairly explained, by a commissioner of the United States, to each of said tribes or bands separately assembled in council, and they have given their free and voluntary assent thereto. And if one or more of said tribes or bands, when consulted as aforesaid, shall freely assent to said treaty as amended, and to their contract connected therewith, it shall be binding and obligatory upon those so assenting, although other or others of said bands or tribes may not give their assent, and thereby cease to be parties thereto: *Provided, further,* That if any portion or part of said Indians do not emigrate, the President shall retain a proper proportion of said sum of four hundred thousand dollars, and shall also deduct from the quantity of land allowed west of the Mississippi such number of acres as will leave to each emigrant three hundred and twenty acres only.

Attest :

ASBURY DICKINS, *Secretary.*

---

TREATY WITH THE NEW YORK INDIANS, AS AMENDED BY THE SENATE,  
AND ASSENTED TO BY THE SEVERAL TRIBES, 1838.

*Articles of a treaty made and concluded at Buffalo creek, in the State of New York, the fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty eight, by Ransom H. Gillet, a commissioner on the part of the United States, and the chiefs, headmen, and warriors of the several tribes of New York Indians assembled in council, witnesseth :*

Whereas the Six Nations of New York Indians, not long after the close of the war of the Revolution, became convinced, from the rapid increase of the white settlements around, that the time was not far distant when their true interest must lead them to seek a new home among their red brethren in the west: and whereas this subject was agitated in a general council of the Six Nations as early as one thousand eight hundred and ten, and resulted in sending a memorial to the President of the United States, inquiring whether the government would consent to their leaving their habitations, and their removing into the neighborhood of their western brethren; and if they could procure a home there, by gift or purchase, whether the government would acknowledge their title to the lands so obtained in the same manner it had acknowledged it in those from whom they might receive it; and, further, whether the existing treaties would, in such a case, remain in full force, and their annuities be paid as heretofore: and whereas, with the approbation of the President of the United States, purchases were made by the New York Indians from the Menomonic and Winnebago Indians of certain lands at Green Bay, in the Territory of Wisconsin, and, after much difficulty and contention with those Indians concerning the extent of that purchase, the whole subject was finally settled by a treaty between the United States and the Menomonic Indians, concluded in February, one thousand eight hundred and thirty one, to which the New York Indians gave their assent on the seventeenth day of October, one thousand eight hundred and thirty-two: and whereas, by the

provisions of that treaty, five hundred thousand acres of land are secured to the New York Indians of the Six Nations, and the St. Regis tribe, as a future home, on condition that they all remove to the same within three years, or such reasonable time as the President should prescribe: and whereas the President is satisfied that various considerations have prevented those still residing in New York from removing to Green Bay, and among other reasons, that many who were in favor of emigration preferred to remove at once to the Indian territory, which they were fully persuaded was the only permanent and peaceable home for all the Indians, and they therefore applied to the President to take their Green Bay lands, and provide them a new home among their brethren in the Indian territory: and whereas the President being anxious to promote the peace, prosperity, and happiness of his red children, and being determined to carry out the humane policy of the government in removing the Indians from the east to the west of the Mississippi, within the Indian territory, by bringing them to see and feel, by his justice and liberality, that it is their true policy and for their interest to do so without delay:

Therefore, taking into consideration the foregoing premises, the following articles of a treaty are entered into between the United States of America and the several tribes of the New York Indians, the names of whose chiefs, headmen, and warriors are hereto subscribed, and those who may hereafter give their assent to this treaty in writing within such time as the President shall appoint:

#### *General provisions.*

ARTICLE 1. The several tribes of New York Indians, the names of whose chiefs, headmen, warriors, and representatives are hereunto annexed, in consideration of the premises above recited, and the covenants hereinafter contained, to be performed on the part of the United States, hereby cede and relinquish to the United States all their right, title, and interest to the lands secured to them at Green Bay by the Menomonie treaty of one thousand eight hundred and thirty-one, excepting the following tract, on which a part of the New York Indians now reside: beginning at the southwesterly corner of the French grants at Green Bay, and running thence, southwardly, to a point on a line to be run from the Little Cacaclin, parallel to a line of the French grants, and six miles from Fox river; from thence on said parallel line northwardly, six miles; from thence eastwardly, to a point on the northeast line of the Indian lands, and being at right angles to the same.

ART. 2. In consideration of the above cession and relinquishment on the part of the tribes of the New York Indians, and in order to manifest the deep interest of the United States in the future peace and prosperity of the New York Indians, the United States agree to set apart the following tract of country, situated directly west of the State of Missouri, as a permanent home for all the New York Indians now residing in the State of New York, or in Wisconsin, or elsewhere in the United States, who have no permanent homes; which said country is described as follows, to wit: beginning on the west line of the State of Missouri, at the northeast corner of the Cherokee tract, and running thence north along the west line of the State of Missouri, twenty-seven miles, to the southerly line of the Miami lands; thence west, so far as may be necessary, by running a line at right angles, and parallel to the west line aforesaid, to the Osage lands; and thence east-

erly, along the Osage and Cherokee lands, to the place of beginning, to include one million eight hundred and twenty-four thousand acres of land, being three hundred and twenty acres for each soul of said Indians, as their numbers are at present computed, to have and to hold the same in fee simple to the said tribes or nations of Indians, by patent from the President of the United States, issued in conformity with the provisions of the third section of the act entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi," approved on the twenty-eighth day of May, eighteen hundred and thirty, with full power and authority in the said Indians to divide said lands among the different tribes, nations, or bands, in severalty, with the right to sell and convey to and from each other, under such laws and regulations as may be adopted by the respective tribes, acting by themselves or by a general council of the said New York Indians, acting for all the tribes collectively. It is understood and agreed that the above described country is intended as a future home for the following tribes, to wit: the Senecas, Onondagas, Cayugas, Tuscaroras, Oneidas, St. Regis, Stockbridges, Munsees, and Brothertowns, residing in the State of New York, and the same is to be divided equally among them, according to their respective numbers, as mentioned in a schedule hereto annexed.

ART. 3. It is further agreed that such of the tribes of the New York Indians as do not accept and agree to remove to the country set apart for their new homes within five years, or such other times as the President may from time to time appoint, shall forfeit all interest in the lands so set apart to the United States.

ART. 4. Perpetual peace and friendship shall exist between the United States and the New York Indians; and the United States hereby guaranty to protect and defend them in the peaceable possession and enjoyment of their new homes, and hereby secure to them in said country the right to establish their own form of government, appoint their own officers, and administer their own laws; subject, however, to the legislation of the Congress of the United States regulating trade and intercourse with the Indians. The lands secured to them by patent under this treaty shall never be included in any State or Territory of this Union. The said Indians shall also be entitled, in all respects, to the same political and civil rights and privileges that are granted and secured by the United States to any of the several tribes of emigrant Indians settled in the Indian territory.

ART. 5. The Oneidas are to have their lands in the Indian territory, in the tract set apart for the New York Indians, adjoining the Osage tract, and that hereinafter set apart for the Senecas; and the same shall be so laid off as to secure them a sufficient quantity of timber for their use. Those tribes whose lands are not specially designated to this treaty are to have such as shall be set apart by the President.

ART. 6. It is further agreed that the United States will pay to those who remove west, at their new homes, all such annuities as shall properly belong to them. The schedules hereunto annexed shall be deemed and taken as a part of this treaty.

ART. 7. It is expressly understood and agreed that this treaty must be approved by the President and ratified and confirmed by the Senate of the United States before it shall be binding upon the parties to it. It is further expressly understood and agreed that the rejection by the President and

Senate of the provisions thereof applicable to one tribe or distinct branch of a tribe shall not be construed to invalidate as to others; but as to them it shall be binding, and remain in full force and effect.

ART. 8. It is stipulated and agreed that the accounts of the commissioner and expenses incurred by him in holding a council with the New York Indians, and concluding treaties at Green Bay and Duck creek, in Wisconsin, and in the State of New York, in 1836, and those for the exploring party of the New York Indians in 1837, and also the expenses of the present treaty, shall be allowed and settled according to former precedents.

*Special provisions for the St. Regis.*

ART. 9. It is agreed with the American party of the St. Regis Indians that the United States will pay to the said tribe, on their removal west, or at such time as the President shall appoint, the sum of five thousand dollars, as a remuneration for moneys laid out by the said tribe, and for services rendered by their chiefs and agents in securing the title to the Green Bay land, and in removal to the same, the same to be apportioned out to the several claimants by the chiefs of the said party and a United States commissioner, as may be deemed by them equitable and just. It is further agreed that the following reservation of land shall be made to the Rev. Eleazer Williams, of said tribe, which he claims in his own right and in that of his wife, which he is to hold in fee simple, by patent from the President, with full power and authority to sell and dispose of the same, to wit: beginning at a point in the west bank of Fox river, thirteen chains above the old mill-dam, at the rapids of the Little Cœaclin; thence north fifty-two degrees and thirty minutes west, two hundred and forty chains; thence north thirty-seven degrees and thirty minutes east two hundred chains; thence south fifty-two degrees and thirty minutes east, two hundred and forty chains, to the bank of Fox river; thence up along the bank of Fox river to the place of beginning.

*Special provisions for the Senecas.*

ART. 10. It is agreed with the Senecas that they shall have for themselves and their friends, the Cayugas and Onondagas, residing among them, the easterly part of the tract set apart for the New York Indians, and to extend so far west as to include one half section (three hundred and twenty acres) of land for each soul of the Senecas, Cayugas, and Onondagas, residing among them; and if, on removing west, they find there is not sufficient timber on this tract for their use, then the President shall add thereto timber land sufficient for their accommodation, and they agree to remove from the State of New York to their new homes within five years, and to continue to reside there. And whereas, at the making of this treaty, Thomas L. Ogden and Joseph Fellows, the assignees of the State of Massachusetts, have purchased of the Seneca nation of Indians, in the presence and with the approbation of the United States commissioner, appointed by the United States to hold said treaty or convention, all the right, title, interest, and claim of the said Seneca nation to certain lands, by a deed of conveyance, a duplicate of which is hereunto annexed; and whereas the consideration money mentioned in said deed, amounting to two hundred and two thousand dollars, belongs to the Seneca nation, and the said nation

agrees that the said sum of money shall be paid to the United States, and the United States agree to receive the same, to be disposed of as follows : the sum of one hundred thousand dollars is to be invested by the President of the United States in safe stocks for their use, the income of which is to be paid to them at their new homes annually, and the balance, being the sum of one hundred and two thousand dollars, is to be paid to the owners of the improvements on the lands so deeded, according to an appraisement of said improvements, and a distribution and award of said sum of money, among the owners of said improvements, to be made by appraisers hereafter to be appointed by the Seneca nation, in the presence of a United States commissioner, hereafter to be appointed, to be paid by the United States to the individuals who are entitled to the same, according to said appraisal and award, on their severally relinquishing their respective possessions to the said Ogden and Fellows.

*Special provisions for the Cayugas.*

ART. 11. The United States will set apart for the Cayugas, on their removing to their new homes at the west, two thousand dollars, and will invest the same in some safe stocks, the income of which shall be paid them annually at their new homes. The United States further agree to pay to the said nation, on their removal west, two thousand five hundred dollars, to be disposed of as the chiefs shall deem just and equitable.

*Special provisions for the Onondagas residing on the Seneca reservations.*

ART. 12. The United States agree to set apart for the Onondagas, residing on the Seneca reservations, two thousand five hundred dollars, on their removing west, and to invest the same in safe stocks, the income of which shall be paid to them annually at their new homes. And the United States further agree to pay to the said Onondagas, on their removal to their new homes in the west, two thousand dollars, to be disposed of as the chiefs shall deem equitable and just.

*Special provisions for the Oneidas residing in the State of New York.*

ART. 13. The United States will pay the sum of four thousand dollars, to be paid to Baptiste Powlis and the chiefs of the first Christian party residing at Oneida ; and the sum of two thousand dollars shall be paid to William Day and the chiefs of the Orchard party residing there, for expenses incurred and services rendered in securing the Green Bay country and the settlement of a portion thereof ; and they hereby agree to remove to their new homes, in the Indian territory, as soon as they can make satisfactory arrangements with the governor of the State of New York for the purchase of their lands at Oneida.

*Special provisions for the Tuscaroras.*

ART. 14. The Tuscarora nation agree to accept the country set apart for them in the Indian territory, and to remove there within five years, and continue to reside there. It is further agreed that the Tuscaroras shall have their lands in the Indian country at the forks of the Neosho river ;



which shall be so laid off as to secure a sufficient quantity of timber for the accommodation of the nation. But if, on examination, they are not satisfied with this location, they are to have their lands at such place as the President of the United States shall designate. The United States will pay to the Tuscarora nation, on their settling at the west, three thousand dollars, to be disposed of as the chiefs shall deem most equitable and just. Whereas the said nation owns, in fee simple, five thousand acres of land, lying in Niagara county, in the State of New York, which was conveyed to the nation by Henry Dearborn, and they wish to sell and convey the same before they remove west: now, therefore, in order to have the same done in a legal and proper way, they hereby convey the same to the United States, and to be held in trust for them; and they authorize the President to sell and convey the same; and the money which shall be received for the said lands, exclusive of the improvements, the President shall invest in safe stocks for their benefit, the income from which shall be paid to the nation at their new homes, annually; and the money which shall be received for improvements on said lands shall be paid to the owners of the improvements when the lands are sold. The President shall cause the said lands to be surveyed, and the improvements shall be appraised by such persons as the nation shall appoint; and said lands shall also be appraised and shall not be sold at a less price than the appraisal without the consent of James Cusick, William Mountpleasant, and William Chew, or the survivor or survivors of them; and the expenses incurred by the United States in relation to this trust are to be deducted from the moneys received before investment.

And whereas, at the making of this treaty, Thomas L. Ogden and Joseph Fellows, the assignees of the State of Massachusetts, have purchased of the Tuscarora nation of Indians, in the presence and with the approbation of the commissioner appointed on the part of the United States to hold said treaty or convention, all the right, title, interest, and claim of the Tuscarora nation to certain lands, by a deed of conveyance, a duplicate of which is hereto annexed; and whereas the consideration money for said lands has been secured to the said nation to their satisfaction by Thomas L. Ogden and Joseph Fellows: therefore, the United States hereby assent to the said sale and conveyance, and sanction the same.

ART. 15. The United States hereby agree that they will appropriate the sum of four hundred thousand dollars, to be applied from time to time, under the direction of the President of the United States, in such proportions as may be most for the interest of the said Indians, parties to this treaty, for the following purposes, to wit: to aid them in removing to their homes, and supporting themselves the first year after their removal; to encourage and assist them in education, and in being taught to cultivate their lands; in erecting mills and other necessary houses; in purchasing domestic animals and farming utensils, and acquiring a knowledge of the mechanic arts.

In testimony whereof, the commissioner and the chiefs, headmen, and people, whose names are hereto annexed, being duly authorized, have hereunto set their hands and fixed their respective seals at the time and place above mentioned.

R. H. GILLET,  
*Commissioner.*

[ L. S ]



*Senecas.*

Dao-nepho-gah, or Little Johnson,	his x mark	[ L. s. ]
Da-ga-o-geas, or Daniel Twoguns,		[ L. s. ]
Gee-odowa-neh, or Captain Pollard,	his x mark	[ L. s. ]
Joh-nes-ha-dih, or James Stevenson,	his x mark	[ L. s. ]
Hare-hau-stock, or Captain Strong,	his x mark	[ L. s. ]
So-ne-a-ge, or Captain Snow,	his x mark	[ L. s. ]
Hau-neh-hoy's-oh, or Blue Eyes,	his x mark	[ L. s. ]
Haw-naw-wah-es, or Levi Halftown,	his x mark	[ L. s. ]
Goat-hau-oh, or Billy Shanks,	his x mark	[ L. s. ]
Hau-sa-nea-nes, or White Seneca,	his x mark	[ L. s. ]
Howah-do-goh-deh, or George Bennet,	his x mark	[ L. s. ]
Hays-tah-jih, or Job Pierce,	his x mark	[ L. s. ]
Sho-nan-do-wah, or John Gordon,	his x mark	[ L. s. ]
Noh-sok-dah, or Jim Jonas,	his x mark	[ L. s. ]
Shaw-neh-dik, or William Johnson,	his x mark	[ L. s. ]
Gaw-neh-do-au-ok, or Reuben Pierce,	his x mark	[ L. s. ]
Shaw-go-nes-goh-shaw-oh, or Morris Halftown,	his x mark	[ L. s. ]
Shaw-go-za-sot-hoh, or Jacob Jameson,	his x mark	[ L. s. ]
Gua-wa-no-oh, or George Big Deer,	his x mark	[ L. s. ]
Joh-que-ya-suse, or Samuel Gordon,		[ L. s. ]
Gua-ne-oh-doh, or Thompson S. Harris,		[ L. s. ]
Gau-geh-queh-doh, or George Jameson,	his x mark	[ L. s. ]
Hon-non-de-uh, or Nathaniel T. Strong,		[ L. s. ]
Nuh-joh-gau-eh, or Tall Peter,	his x mark	[ L. s. ]
Sho-nauk-ga-nes, or Tommy Jimmy,	his x mark	[ L. s. ]
So-joh-gwa-us, or John Tall Chief,	his x mark	[ L. s. ]
Shau-gau-nes-es-tep, or George Fox,		[ L. s. ]
Go-na-daw-goyh, or Jabez Stevenson,		[ L. s. ]
Tit-ho-yuh, or William Jones,	his x mark	[ L. s. ]
Juneah-da-glence, or George White, by his agent,		
White Seneca,	his x mark	[ L. s. ]
Gau-nu-su-goh, or Walter Thompson, by his agent,		
Daniel Twoguns,	his x mark	[ L. s. ]
Dau-ga-se, or Long John,	his x mark	[ L. s. ]
Gua-sa-we-dah, or John Bark,	his x mark	[ L. s. ]
Gau-ni-dough, or George Lindsay,		[ L. s. ]
Ho-ma-ga-was, or Jacob Bennet,	his x mark	[ L. s. ]
On-di-heh-oh, or John Bennet,	his x mark	[ L. s. ]
Nish-ha-nea-nent, or Seneca White,	his x mark	[ L. s. ]
Ha-dya-no doh, or Maris Pierce,		[ L. s. ]
Yoh-dih-doh, or David White,		[ L. s. ]
James Shongo,	his x mark	[ L. s. ]
Ka-non-da gyh, or William Cass,	his x mark	[ L. s. ]
Ni-ge-jos-a, or Samuel Wilson,	his x mark	[ L. s. ]
Ja-nou-da-goh, or John Seneca,	his x mark	[ L. s. ]

*Tuscaroras.*

Ka-nat-soyh, or Nicholas Cusick,	[ L. s. ]
Sacharissa, or William Chew,	[ L. s. ]

Kaw-we-ah-ka, or William Mountpleasant,	his x mark	[L. s.]
Kaw-re-a-rock-ka, or John Fox,		[L. s.]
Gee-me, or James Cusick,		[L. s.]
Ju-hu-we-at-kak, or John Patterson,	his x mark	[L. s.]
O-ta-quaw-naw-wa, or Samuel Jacobs,		[L. s.]
Ka-noh-sa-ta, or James Anthony,	his x mark	[L. s.]
Gou-ro-quan, or Peter Elm,	his x mark	[L. s.]
Tu-nak-she-a-han, or Daniel Peter,	his x mark	[L. s.]

*Oneidas residing in the State of New York, for themselves and their parties*

Baptiste Powlis,	his x mark	[L. s.]
Jonathan Jordon,	his x mark	[L. s.]

*Oneidas at Green Bay.*

John Anthony,	his x mark	[L. s.]
Honjoit Smith,	his x mark	[L. s.]
Henry Jordon,	his x mark	[L. s.]
Thomas King,	his x mark	[L. s.]

*St. Regis.*

Eleazer Williams, chief and agent,	[L. s.]
------------------------------------	---------

*Oneidas residing on the Seneca reservation.*

Hon-no-g-nea-doh, or Silversmith, for himself and in be- half of his nation,	his x mark	[L. s.]
Hoge-wayhtah, or William Jacket,	his x mark	[L. s.]
Sah-hu-gae-ne, or Button George,	his x mark	[L. s.]

*Principal Onondaga warriors, in behalf of themselves and the Onondaga warriors.*

Ka-no qua-sa, or William John,	his x mark	[L. s.]
Dah-gu-o-a dah, or Noah Silversmith,	his x mark	[L. s.]

*Cayugas.*

Skok-no-eh, or William King,	his x mark	[L. s.]
Geh-da-or-loh, or James Young,		[L. s.]
Gay-on-wek, or Jack Wheelbarrow,	his x mark	[L. s.]
D'yo-ya-tek, or Joseph Isaac,	his x mark	[L. s.]
For themselves and in behalf of the nation.		

*Principal Cayuga warriors, in behalf of themselves and the Cayuga warriors.*

Hah-oh-u, or John Crow,	his x mark	[L. s.]
Ho-na e-geh-dah, or Snow Darkness,	his x mark	[L. s.]
Gene-ah-ga-u-do, or Jacob G. Seneca,		[L. s.]

Di-i-en-use, or Ghastly Darkness,	his x mark	[L. s.]
Hon- <del>Ho</del> -gah-dyok, or Thomas Crow,	his x mark	[L. s.]
Wau-wah-wa-na-onk, or Peter Wilson,		[L. s.]
So-en-dagh, or Jonathan White,	his x mark	[L. s.]
Sgo-gan-e-on-gwus, or Harvey Rowe,	his x mark	[L. s.]
To-ga-ne-ah-doh, or David Crow,	his x mark	[L. s.]
So-win dah-neh, or George Wheeler,		[L. s.]
Do-goh-no-do-uis, or Simon Isaac,	his x mark	[L. s.]
He dai-sos, or Joseph Peter,	his x mark	[L. s.]
Ma-go-di-get-ka, or Jacob Jackson,	his x mark	[L. s.]

Witnesses :

James Stryker, *Sub-agent Six Nations New York Indians.*

Nathaniel T. Strong, *United States Interpreter, New York agency.*

H. B. Potter,

Orlando Allen,

H. P. Wilcox,

Charles H. Allen,

Horatio Jones,

Spencer H. Cone,

W. W. Jones,

J. F. Schermerhorn,

Josiah Trowbridge.

#### SCHEDULE A.

*Census of the New York Indians, as taken in 1837.—Number residing on the Seneca reservations.*

Senecas	-	-	-	-	-	-	-	-	2,309
Onondagas	-	-	-	-	-	-	-	-	194
Cayugas	-	-	-	-	-	-	-	-	130
									<u>2,633</u>
Onondagas, at Onondaga	-	-	-	-	-	-	-	-	300
Tuscaroras	-	-	-	-	-	-	-	-	273
St. Regis in New York	-	-	-	-	-	-	-	-	350
Oneidas at Green Bay	-	-	-	-	-	-	-	-	600
Oneidas in New York	-	-	-	-	-	-	-	-	620
Stockbridges	-	-	-	-	-	-	-	-	217
Munsees	-	-	-	-	-	-	-	-	132
Brothertowns	-	-	-	-	-	-	-	-	360

The above was made before the execution of the treaty.

R. H. GILLET, *Commissioner.*

#### SCHEDULE B.

The following is the disposition agreed to be made of the sum of three

thousand dollars, provided in this treaty for the Tuscaroras, by the chiefs, and assented to by the commissioner, and is to form a part of the treaty :

To Jonathan Printup, ninety-three dollars.

To William Chew, one hundred and fifteen dollars.

To John Patterson, forty-six dollars.

To William Mountpleasant, one hundred and seventy-one dollars.

To James Cusick, one hundred and twenty-five dollars.

To David Peter, fifty dollars.

The rest and residue thereof is to be paid to the nation.

The above was agreed to before the execution of the treaty.

R. H. GILLET, *Commissioner*.

### SCHEDULE C.

Schedule applicable to the Onondagas and Cayugas residing on the Seneca reservations. It is agreed that the following disposition shall be made of the amount set apart to be divided by the chiefs of those nations in the preceding part of this treaty, any thing therein to the contrary notwithstanding :

To William King, one thousand five hundred dollars.

To Joseph Isaacs, seven hundred dollars.

To Jack Wheelbarrow, three hundred dollars.

To Silversmith, one thousand dollars.

To William Jacket, five hundred dollars.

To Button George, five hundred dollars.

The above was agreed to before the treaty was finally executed.

R. H. GILLET, *Commissioner*.

### *Protest of residents on the Tonawanda reservation.*

We, the undersigned warriors and residents of the *Tonawanda reservation of Indians*, in the State of New York, most respectfully beg leave to *protest* and *remonstrate* against the sale and disposition of our land to those who claim to have the pre-emptive right to purchase the same, or to any other individual or individuals, or to the government, as it is and ever has been our deliberate resolve not to accept of the country offered to us by the government, neither to part with the lands now in our possession, and under control of the chiefs as our representatives.

Dated this 15th day of September, A. D. 1838.

George Moses,	x	John Hiram,	x
John Bigfire,	x	Daniel Carpenter,	x
Dennis Sky,	x	James Bigbag,	x
John Bigbag,	x	John Luke, jr.,	x
William Taylor,	x	John Griffin,	x
John Cooper,	x	John Farmer,	x
Amos George,	x	Isaac Doctor,	x
Abram George,	x	William Parker,	x
James George,	x	John Shanks,	x

David Printup,	x	Benjamin Jones,	x
John Fish,	x	Monroe Squire,	x
Robert Fish,	x	Stephen Bigbag,	x
Tommy Black,	x	William Lacy,	x
Bherwood Black,	x	George Clantor,	x
John Miller,	x	Thomas Clantor,	x
John Irvin,	x	Samuel Clantor,	x
Chauncy Abram,	x	Jabez Clantor,	x
George Powder Horn,	x	William Jones,	x
George Washington,	x	Jesse Moses,	x
Blackchief,	x	William Hatch,	x
John Maki,	x	William Johnson,	x
Isaac Shanks,	x	William James,	x
James Rollin,	x	David Brooks,	x
Anthony Jones,	x	John Martin,	x
Peter Taylor,	x	John Jones,	x
Thomas Evans,	x	Billy Stewart,	x
Isaac Doxtator,	x	Kilisy Tiffany,	x
Sammons Spring,	x	Hirald,	x
Tommy Hiram,	x	John William	x
George Fish,	x	John Abram,	x
Henry Moses,	x	William Clute,	x
Woods Moses,	x	Thompson Coody,	x
John Bigfire,	x	William Snider,	x
Esquire Brooks,	x	Henry Ground,	x
Jemmy Brooks,	x	Henry Jackson,	x
Elon Sky,	x	Aitch Ground,	x
George Sky,	x	Tommy Hall,	x
Henry Johnson,	x	John Come,	x
Ely Johnson,	x	Daniel Peter,	x
David William,	x	Black Chief Brother,	x
Levi Barker,	x	Nixon Thomas,	x
Jabez Ground,	x	Wilson Thomas,	x
William Cananta,	x	David Bigbag,	x
Snall Peter,	x	Elias Jones,	x
Henry Jemison,	x	Reuben Jones,	x
Barber Jemison,	x	Tommy White,	x
William Jemison,	x	John Thomas,	x
William Snidor,	x	David Shanks,	x
Samuel Parker,	x	James John,	x
Joseph Taylor,	x	Ely Stone,	x
Tommy Hill,	x	Nicholson Parker,	x
John Hill,	x	George Taylor,	x
Isaac Hill,	x	Thomas Spring,	x
Lewis Cananta,	x	Thomas Snider,	x
Richard Cooper,	x	Billy Halfbreed,	x
Thompson Cananta,	x	Daniel Spring,	x
Abel Bigham,	x	William Moses,	x
Thomas Bigtree,	x	John Jones,	x
John Bigtree,	x	James John, jr.,	x
Joseph Fish,	x	William Fish,	x
John Beaver,	x	Daniel Fish,	x

James Fish,  
Adam Blue Sky,

x James Johnson,  
x

SEPTEMBER 15, 1838.

I hereby certify that all persons whose names are attached to this paper did severally and personally make their marks in my presence.

THOMAS JEMISON, *Interpreter*,

E.

*Proceedings of an Indian council held at the Buffalo Creek reservation, State of New York, fourth month, 1842.*

The joint committees of the four Yearly Meetings of Friends of Genesee, New York, Philadelphia, and Baltimore, charged with the concern of the meetings for the welfare of the Indian natives, having, during the year, applied themselves assiduously to the discharge of the duties devolved upon them, the following summary account of their proceedings is presented as matter of information, and as the best means of giving a correct view of the present state of the concern.

The ratification of "the amended treaty" by the Senate, and its proclamation by the President of the United States, after a full exposure of the objectionable means used to procure its execution, was not anticipated by the committee. It was painful to perceive that a strong and affecting appeal, in behalf of the helpless and oppressed, to the justice and humanity of the nation, should fail to produce its proper effect. The consummation of a scheme to drive an unoffending people, from their comfortable homes into a wilderness beyond the State of Missouri involved the committee in increased difficulties, but did not extinguish a hope that, by a further illustration of the case of the suffering Seneca nation, and a renewed appeal to the authorities of our government, a reconsideration of the treaty might be obtained, and that justice would finally triumph over all opposition.

Under this hope, memorials were prepared and presented to the President and to both houses of Congress, and a work was published entitled "A further illustration of the case of the Seneca Indians in the State of New York." In this work the *injustice* of the treaty was fully exposed, and the reasons exhibited why, in the judgment of the committee, it ought to be annulled. The remonstrances offered on this occasion were favorably received, and we have no doubt that there was generally, in the different departments of the government, as now constituted, a disposition to remedy, as far as practicable, the evils of which we had complained. But the ratification of the amended treaty, by which (according to the forms in such case prescribed) it had become the law of the land, had vested in the alleged purchasers of the Indian reservations a *legal* right to them, which, it was said, could not be disturbed by any subsequent *legislation* in the case. This opinion, operating with other powerful causes, rendered all our endeavors to procure a revision of the treaty by the Senate unavailing.

While we were thus struggling against a current of unfavorable circumstances, the Indians, under a lively sense of the wrongs and injustice they had been practised upon them, had determined to resist, at least passively, every attempt to dispossess them of their cherished inheritance. Some of their chiefs, under a bitter sense of their injuries, had explicitly declared



that as the whole transaction was a gross fraud, as their *nation* had, as each, taken no part in the affair, except to protest openly against it, they would die on their land by the violence of their oppressors, rather than remove at their arbitrary mandate.

This determination on the part of the Senecas, if carried into effect, must have impelled the government either to permit the law to remain a *dead letter*, or to employ a military force to effect the expulsion of the Indians. The well known policy of the government to remove all the aboriginal race beyond the Mississippi forbids the idea that the treaty would be suffered to remain a lifeless form, whilst the expulsion of the Senecas at the point of the bayonet is a circumstance which could not be contemplated without horror, and would be deprecated by every friend of the Indians and of our country. Even to those who were to be benefited by the execution of the treaty, such a result must have presented painful and discouraging prospects. It would probably divide the citizens living in the vicinity of the Indian lands into parties, as their interests on the one hand, and their feelings on the other, might sway their judgment; and angry contentions and lasting animosities would be the consequence. This struggle might be indefinitely protracted, during which the Indians, agitated by contending passions, disunited among themselves, unsettled and disturbed, would be unfitted for the pursuit of their best interests, and irreparable injury, both to their habits and morals, might and probably would be the result.

With these views, the committee became anxiously concerned for the peace and welfare of the Indians and of our country, and were very solicitous that some means might be discovered by which such disastrous consequences would be avoided. At the same time they felt the deep importance of preventing a forcible removal of the natives to a country ill suited to their present state, and of preserving them in the peaceable enjoyment of a home on lands descended to them from their forefathers. *Under this concern*, through the benevolent mediation of the present Secretary of War, a proposition for a compromise with the Ogden Land Company was made. By his kind and efficient aid all difficulties between the parties were adjusted, and a plan was finally agreed upon which will be developed in the ensuing pages.

By the proposed arrangement, this remnant of the Seneca nation, consisting now of about 2,500 individuals, will have more than 52,000 acres, principally of rich fertile land, giving to each family upwards of 100 acres—a quantity amply sufficient for every necessary purpose. The Indians will be more concentrated, and consequently more favorably situated for mental and moral improvement, as well as for the support of schools and other institutions for the advancement of science and the formation of habits essential to a state of civilization, than they have heretofore been. In this concentrated state they will be accessible to their friends, and more open to the kindly influences of those who may believe it right to devote themselves to the melioration of their condition.

As soon after the arrangement of the supplemental treaty was effected, and the season and other circumstances would permit, a delegation from the four yearly meetings of Genesee, New York, Philadelphia, and Baltimore, proceeded to Buffalo, and, according to a previous arrangement, met the chiefs in council on the 9th of 4th month, 1842. The following narrative of their proceedings will give a clear idea of the transactions which took place on the occasion:

*Notes taken at an Indian Council held at Buffalo Creek reservation, the month 9th, 1842, for the purpose of laying before the Senecas the supplemental treaty that had been agreed upon for the reconveyance to them of a portion of their lands in the State of New York.*

Present—the chiefs and headmen of the Seneca nation, and the delegation from the joint committee on Indian affairs of the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee.

Maris B. Pierce was chosen interpreter.

Griffith M. Cooper opened the council by the following remarks:

BROTHERS: We have been favored by the help of the Great Spirit to meet you in council on the present occasion. We are glad to mingle with you, and to find that you and ourselves are here in the enjoyment of good health. For this, and every other blessing, we should be thankful to the Author of our existence.

The subject upon which we have assembled is one of vast importance to you; therefore we desire your ears may be opened to hear and to understand. The friends that you now see before you have been deputed, by the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee, to meet you here this day in council. If you are ready to listen to them, they are prepared to open their business before you, and to state to you the things that have been committed to their charge.

*The communication they are about to make to you is the voice of the four yearly meetings I have alluded to. If you have any preparatory remarks to offer, we will listen to you.*

To this, Israel Jemison replied as follows:

BROTHERS AND FRIENDS: You have this day again met us and our people in council. We are happy to see you; we rejoice that you are well. It was the kind hand of Providence that brought you here safe and in good health. We thank our Creator for his kindness; we hope we shall bless him for his goodness to us this day.

Brethren and friends, *this council was opened at your request, for the purpose of laying before this people the business between us and the Ogdén Land Company. It is a great and momentous subject. You have given us notice that you were ready to open to us those things which you had in charge. We are now ready to listen to you.*

The following communication, agreed upon by the joint committees, was then read and interpreted to them:

*To the Seneca nation of Indians in the State of New York:*

BROTHERS! It is now about three years since your friends of the yearly meetings of New York, Philadelphia, and Baltimore were informed of the difficulties in which you were involved with the Ogdén Land Company. In the eighth month, called August, in the year 1839, a large committee of Friends came to see you, in order to inquire more fully into the cause of your trouble. We then learned that a treaty, dated January 15th, 1838, had been executed by a number of your chiefs, in which it was agreed that the Seneca Indians should, within five years, give up all their lands in the State of New York, and settle in the country beyond the State of Missouri. To this treaty the names of forty-five chiefs were attached. We also learned that a deed of the same date, conveying to the Ogdén Land Company

four reservations of Tonawanda, Buffalo, Cattaraugus, and Allegany, had been executed, and that the names of forty-three of your chiefs appeared on that deed.

Brothers! When we visited you at that time we also learned that the government of the United States had not ratified that treaty, and that the Senate had made another, which was called "the amended treaty." This treaty was, by order of the Senate, to be explained to the Indians *in council*, and then submitted to them for their signatures. This was done, but, as you have assured us, was neither approved nor signed by a majority of your chiefs.

Brothers! When your friends heard these things, their hearts were made sad. They believed that what you told them was true, and that you had been grievously wronged. Under this conviction, relying on the justice of your cause, and the good faith of the government, they appealed to the President of the United States, and to the National Legislature, in both houses of Congress, on your behalf. Documents, showing the manner in which "the amended treaty" had been executed, and fully illustrating your case, as it was represented to us by yourselves, were laid before the President and the other branches of the government. Yet, notwithstanding all our exertions, and the faithful labors of your friends in the Senate, the treaty was ratified and proclaimed by the then President as the law of the land.

Brothers! Ever since that time we have labored faithfully to obtain a revision of that treaty by the constituted authorities of our country. We have printed books to spread the knowledge of your wrongs. We have been many times at Washington to plead your cause. We have solicited the aid of the governments of New York and Massachusetts. We have spared no labor, no expense, no exertion, to obtain relief for our red brethren.

Brothers! We are sorry to have to say to you that the difficulties and obstructions which lay in our path were so many and so great that we could neither walk over them nor remove them out of the way. As soon as the treaty was ratified, and proclaimed by the President of the United States, it became the supreme law of the land; and the deed, which had been signed by a number of your chiefs, vested certain legal rights in the Ogden Land Company, which, we have been told by men learned in the law, could not afterwards be taken from them by any legislative action on the part of the government.

Brothers! Under these circumstances we looked round on every side, and saw no certain way for the relief and preservation of your people, unless a compromise could be made between all the parties to that treaty, by which each of them should concede and give up something for the peace and harmony of the whole.

Brothers! It was thought by some who were friendly to your cause that you might finally obtain justice by an appeal to the courts of law. This subject has been seriously and anxiously considered by us; but when we took into view the heavy expenses of such an undertaking, the great length of time it might require to bring it to an issue, the unhappy effects of hostile proceedings upon all parties, and the unsettling and ruinous consequences of a tedious law-suit upon yourselves, we could not recommend that course to our red brethren, but would follow it ourselves.

Brothers! After we had suffered much anxiety and trouble on your account, and the hope of obtaining any relief for you had begun to fail us, a

way was opened for an accommodation, and settlement of all the difficulties between the several parties to the present controversy. At a council held at Washington, on the 28th day of the first month, in the present year, between the Secretary of War, the agents of the Ogden Land Company, and a delegation of Friends on behalf of the four yearly meetings of Genesee, New York, Philadelphia, and Baltimore, a plan of accommodation was proposed, and it was agreed to put it into the form of a treaty for your consideration. This was done; it was carefully considered, and will now be laid before you.

Brothers! By this arrangement you may, if you please, continue to dwell on a part of the land which the Great Spirit gave to your forefathers. The two reservations of Cattaraugus and Allegany will be restored to you, and will remain yours forever, or until you may choose to part with them. For the two reservations of Tonawanda and Buffalo you will receive a price proportionate to the whole sum mentioned in the deed before mentioned, dated January 15th, 1838, signed by many of your chiefs; and you will be paid for the improvements upon them at the same rate as agreed upon by those who executed the treaty of that date. Under this arrangement, also, such of your people as may choose to remain in the State of New York will have land sufficient for their accommodation and subsistence, when they may enjoy the advantages to be derived from a surrounding population, skilled in agriculture and the arts of civilized life; while such of them who may prefer a situation in the country beyond the river Mississippi will be left at liberty to emigrate to that place, and take with them their share of the moneys and annuities of the nation; and, moreover, they will be entitled to their portion of the land, as well as to all the other advantages secured to them by the treaty, which has already been ratified. If, then, there be two parties among you, the one an *emigration* party, and the other a *domestic* or non-emigration party, both may be accommodated under the proposed arrangement.

Brothers! It is well known to you, that by your proximity to the city of Buffalo your people are exposed to the pernicious example and contaminating influences of wicked men, by which many of you have been corrupted, and others much injured. Sould you accept the proposed treaty, such of you as may remain on your New York lands will be further removed from a situation which has already been to you a source of much injury.

Brothers! If it should appear to you proper to reject the present proposition, you will stand just as you stood before this attempt to effect a compromise was made. The amended treaty provides for the relinquishment of all your lands in the State of New York; and, at the same time, requires your removal to the country beyond the State of Missouri. "The supplemental treaty" or compromise now proposed leaves all of you at liberty. Such as choose to go may go, and take their shares of the moneys and annuities of the nation: such as choose to stay may stay, and enjoy all the advantages of a country already civilized and improved. We desire that you may seriously consider the proposition now before you. On your decision at this time much of your future welfare depends. You must judge for yourselves. Your friends have come here to lay the contract before you, and to explain its provisions; they have not come to dictate any thing to you, nor to direct you in your choice.

Brothers! We have done for you every thing that it was in our power to do. For more than two years we have labored faithfully in your cause.

You will now know the result of all our exertions in your behalf; and on this solemn occasion we feel concerned to say a few more words to you before we part. To those who may emigrate, and to those who may remain, or whether you all remain or all go away, our communication will be equally applicable to you.

Brothers, listen! You know that the white men have a written language. By this means we can look backward, and see clearly over all the long path in which the *red* men and the *white* men have been walking, now more than two hundred years. We have seen that from the day when the *white men* first set their feet on your land they have been *increasing*, and the *red men* have been *decreasing*. The *white men* are now very numerous and powerful; the *red men* are few in number and very feeble. Some of their nations are entirely extinct—their council-fires have gone out forever. Others have been greatly reduced; and the little remnants yet living are poor and weak, and scattered abroad—some in one place and some in another. From the great water which lies towards the rising sun, to the great Mississippi, the father of rivers, a distance of almost one thousand miles, they have nearly all disappeared.

Brothers! We have thought much of these things, and we believe that many of our red brothers have thought of them also. And now we feel it to be our solemn duty to open our minds to you. When great evils fall upon individuals or nations, the wise men among them try to find out the cause; and when they have found it, they endeavor, by the aid of the Great Spirit, to remove it out of the way. This is a duty as binding upon the red men as upon the white men.

Brothers! We all know that war, and strong liquors, and the small pox, as well as other contagious diseases, have destroyed many of the Indians, and greatly reduced their numbers; but when there are no wars, and no contagious diseases among them, they still continue to decrease. We think that the use of strong liquors, and the indolent mode of life yet followed by many of your people, are the principal causes of this decrease.

Brothers! We have heard with much pleasure that on some of your reservations you have made great exertions to prevent the introduction and use of strong liquors among you. If you should succeed in your efforts wholly to keep out this destructive drink, one fruitful cause of your misery and decrease will be removed.

Brothers! The Great Spirit, when he first made man, intended that he should labor. Moderate labor is good for his body and for his mind. It makes him strong and healthful. By industry and diligence he is enabled to have a warm house, good clothing, plenty of wholesome food, and all the comforts of life in abundance. By these means, also, he is enabled to improve his mind by useful learning, and to give his children a good education. Thus one generation after another have the means of growing wiser and better; and we believe that under such circumstances nations always increase in numbers and become strong.

Brothers! You know that under the circumstances in which you are now placed, surrounded by a white population, the white men, by their intelligence, are constantly taking advantages of you, which we believe will always be the case until you are prepared, by a better education and a more general acquaintance with the habits and customs of civilized life, to guard yourselves against them. We believe it essential to your prosperity that you adopt a mode of living suited to your present condition. You



can no longer live by the chase—you must either become cultivators of the earth, or cease to exist as a people. We understand that it is the will of the Great Spirit that man should till the ground ; for without tillage it will not produce bread. Where this will is obeyed, *there* we generally see a prosperous and happy people ; where it is neglected, vice and misery, and want, and destruction, come upon the nation.

Brothers ! Some of you know that your friends, the Quakers, ever since they had settlements among you at Allegany and Cattaraugus, now more than forty years, have preached to you this doctrine. They labored to persuade your people to become farmers, and bring up your children to agriculture, and to learn trades. They saw as plainly as we see now that this was the only way to preserve the Indian tribes from extinction.

Brothers ! As our fathers preached to the Indians this doctrine more than forty years ago, so we now hold forth to you the same doctrine. We will not deceive you. We will open our hearts to you freely and plainly. We will tell you the truth. You did not take their advice then, and since that time your nation has been growing weaker and weaker ; but we believe it is not yet too late to reform. If you will take our advice now ; if you will bring up your sons to agriculture and the arts ; if you will withdraw your women from the labors and drudgery of the field ; if you will have your daughters taught to spin and to sew, and to knit, as well as to practise the other useful branches of housewifery ; if you will set your children an example of sobriety and the other virtues, then will your nation grow and increase, and become strong ; but if you will not follow this advice, nothing your friends have done, or can do for you, will save you from extinction ; and the day is not very distant when, like the snow under a warm sun, your race will melt away, and be seen of men no more.

Signed on behalf of the joint committee on Indians affairs of the four yearly meetings of Friends of Genesee, New York, Philadelphia, and Baltimore.

G. M. COOPER,	}	<i>Genesee.</i>
WM. S. BURLING,		
N. STARBUCK,	}	<i>New York.</i>
JOHN LEGGETT,		
S. J. UNDERHILL,		
BENJAMIN FERRIS,	}	<i>Philadelphia.</i>
JOSEPH WARNER,		
JOHN JACKSON,	}	<i>Baltimore.</i>
MOSES SHEPPARD,		
PHILIP E. THOMAS,		

BUFFALO, 4th mo. 9th, 1842.

Israel Jemison then rose and said :

BROTHERS AND FRIENDS : You have now given us your communication—you have made us understand it.

It is now a great many years since there was a full understanding between your fathers and our fathers, that there should be a free and friendly intercourse between you and us. It is true, you have done your duty towards us. Your fathers long ago told us the same things you have told us this day, and you have repeatedly given us the same information and instruction that you now give us.

We believe you to be our friends ; we believe you will be faithful to us



as long as our nation shall exist ; that you will endeavor to protect us, and give us all the information we need.

In the present communication you have told us that which is true ; and we are sensible that if our nation will acquiesce in and embrace your counsel, it would have a most salutary and beneficial effect upon them ; and that if we should reform, and wholly reject the use of ardent spirits, we should become a happier and more prosperous people. It is also true, that if we adopt habits of industry, and not lie down in idleness day after day, we should become more comfortable. We also believe that if our women, too—our mothers and daughters—should leave the labor and drudgery that they now undergo for a more domestic employment, it would be both to their and our benefit ; it would promote the good of all. It would also be a means of preserving our people, if they would send their children to school and have them instructed in useful learning and the arts of civilized life ; and we are fully convinced that if our nation would adopt your habits and mode of life, they would be more prosperous and happy.

We hope your communication will do us good ; we hope and pray you may continue to give advice and instruction to this people. There are none who have done as much for us as you have done. You have labored much for us both in body and in mind ; you are anxious for our happiness and our safety ; you have spent much time and money in our behalf.

Brothers, these are proofs and witnesses that you have much feeling for our people ; and we would say to you, that we return you our hearty thanks.

We now come to another subject, the important business of our present council. We are now about to discuss the merits and demerits of this important question.

Brothers, I want to ask you some questions in relation to this compromise. I understand that the Cattaraugus and Allegany reservations will be conveyed to the Indians, but the Tonawanda and Buffalo reservations will be confirmed to the Ogden Land Company. We want to know, if the chiefs should conclude to give up another reservation in exchange for one of these, whether the Ogden Company would accede to it ?

If the chiefs conclude to have certain alterations in this treaty, will the government consent to it ?

Do we understand you to say that those who wish to emigrate may do so, and those who wish to stay may stay ? There are chiefs of the emigrating party present. They believe, according to the treaty, that they will remove if all the four reservations are disposed of. Suppose they say they are migrationists if *all* the Indians remove ; but if *part* of them remain, they will remain also. Now, if a majority should say to the emigration party that they shall go in the event of a compromise, will they have any power or authority to compel them to remove ?

Brothers, it seems necessary that we should inquire into these points, that we may have a fair understanding. I await your answer.

The proposed supplemental treaty was now read, and its provisions explained by Benjamin Ferris. When these explanations had been concluded, Israel Jemison continued :

Brothers, a few minutes ago we put several questions, in order to a fair understanding of the subject, and before you answer them we will ask a few more questions. Have you power to alter or amend this treaty so as to

say this article shall be inserted, or this shall not? The agent of the Ogden Company is not here.

According to this treaty, the President of the United States is to receive the consideration money. Can the Indians draw the principal when they want it?

Since the majority had no voice in fixing the value of the lands, can they change it now? Perhaps they would like to have more than is therein stated; and we would like to know if the Ogden Company would be willing to increase the price of the lands.

Can the treaty be amended by the Indians, so that in case the chiefs conclude to accept it they can lengthen out the time they have to remove, and be permitted to hold their improved lands longer than one year?

William Jones asked, What will become of the Green Bay lands, if the Indians conclude to accept this treaty?

Upon which I. Jemison remarked, Some of the chiefs thought they had no business to meddle with that, as the Indians never wanted the Green Bay lands.

William Jones replied: The reason I put the question was, that the United States had been trying to force the Senecas to own them.

I. Jemison then said he wanted to know what was to become of the Indian land at Oil Spring—it was not mentioned in this or in any former treaty.

The committee replied, that the six hundred and forty acres of land at Oil Spring not being ceded by the Indians to the Ogden Company in any treaty or deed, consequently still belonged to the Senecas.

Wm. Crouse inquired, If the chiefs conclude to accept this treaty, and desire to draw the principal of the money at once, and not let it be paid over to the United States, and receive the annuities therefrom, could they draw and deposit it where they please—I mean deposit the principal in some other place, and receive the annuities? I also wish to know, if the emigration party should conclude to go to Cattaraugus, and stay awhile, and afterwards conclude to go beyond the Mississippi, can they at any time take their annuities?

Tunis Halftown said, I want to ask a question, as the door is now opened. Will the Ogden Company give up the pre-emption right to these two reservations?

Daniel Twoguns asked, Will the Company consent to the Indians dividing these two reservations into farms, so that each family will have the sole power to buy and sell, without the consent or authority of the chiefs?

Samuel Gordon said he thought there was no use in asking questions, until they knew whether any alterations in the treaty could now be made.

Benjamin Ferris, on behalf of the committee, stated that the object of the council was expressly to lay the whole subject before the Indians for their consideration—we did not expect a final decision until the Indians should fully examine the proposition in all its bearings—and that they were at liberty to ask any question which they might think necessary to a fair understanding of the subject.

Jacob Johnson then inquired if the Ogden Company would be willing to let the Indians retain their improved lands on all the reservations, in case they should be willing to give up to the company all their wild lands on the four reservations?

Henry Twoguns repeated a question put by Israel Jemison, whether this supplemental treaty could be altered or not ?

Lewis Halftown asked, if we should reject this treaty, as we have never assented to the amended treaty, what consequences would follow ?

Samuel Gordon wished the committee to state, distinctly, whether the proposed treaty could be amended by the Indians or not ?

Israel Jemison asked for the same thing ; he also wished particularly to know, if the Ogden Company really had acquired vested rights under the supplementary treaty, what considerations had led that company to accede to this compromise arrangement ?

Philip E. Thomas, on behalf of the committee, then made the following statement :

We will endeavor, in a few words, to inform the council of the circumstances which led to the compromise now proposed.

When this subject was first brought to our knowledge, the amended treaty, together with a deed of conveyance, by which the Senecas had alienated the four several reservations of Tonawanda, Buffalo, Cattaraugus, and Allegany, had been executed. It was alleged by you that very corrupt means had been employed in procuring this deed and treaty, and in your then distressed situation you solicited our aid.

The committees of the four yearly meetings, after taking the whole subject into consideration, and endeavoring to ascertain the best course for them to pursue, under the circumstances in which they found you placed, waited on the then President of the United States, in whose hands the treaty at that time was, and requested him to return it back to the Senate, in order that this body might have an opportunity to reconsider it. At the same time they petitioned the Senate not to ratify it, and they also laid before both the President and Senate all the evidences that had been furnished by you of the improper means employed to procure the treaty.

Notwithstanding all these representations, the treaty was finally ratified by the Senate, and subsequently it was formally proclaimed by the President.

Finding that nothing could be gained for the relief of the Indians by appeals to the President or Senate of the United States, the committee petitioned Congress not to furnish money to carry it into execution. This, however, they were aware could only produce a temporary suspension of the treaty, because it was foreseen that in the end Congress would grant the money, and the treaty be carried into effect.

As soon as your friends discovered that there was but little hope of defeating the treaty in the Congress of the United States, they began to consider whether an appeal to the courts of law, on behalf of the Indians, might not be made. After obtaining the best advice they could procure in relation to this subject, they perceived that this would not be a discreet measure, and should not be resorted to but in the last extremity. It was certain that if adopted it would consume a great length of time, and involve a large sum of money ; while there was scarcely a hope that in the end it would result in any advantage whatever to the Indians.

When they had arrived at this point they began to despair of effecting any thing for your benefit, unless the Ogden Company could be induced to enter into a compromise ; and they determined to make an effort to effect the best arrangement they could in that way.

They saw that the treaty as it now stood, however it might have been

procured, had become the fixed law of the land ; that the Ogden Company had acquired certain rights under it, which could not be taken from them by any legislation ; that the treaty having all the constitutional forms necessary to make it valid, would be so considered by the courts of the United States, and would be carried into effect.

Considering that, by the conditions of this treaty, the whole of the lands in your four reservations had been ceded by the Indians, and that within five years you would be driven from your homes, into a far distant wilderness, the committee were most anxious that this great calamity might be averted ; and after considering the matter very maturely, they concluded to open a correspondence with the Ogden Company. When the proposition for a compromise was first made to the agents of that company, they promptly rejected it, and avowed that they did not want any compromise ; that they had bought the lands and would take possession of them ; consequently, the first interview with them terminated without any prospect of success.

An appeal was then made to the Secretary of War, and by his interposition a second interview with an agent of the company took place in the War Office, at Washington, at which the Secretary was present ; and from that time he effectively lent his aid to assist your friends in carrying out the proposed measure.

The Ogden Company perceiving that not only the whole influence of the Society of Friends would be exerted against them, but also that we should have the assistance of the government, now listened to our overtures, and several interviews took place afterwards with the agents of that company. After a great deal of labor and perseverance, the negotiations with them resulted in the procuring for you the return of the two reservations as now proposed by this treaty.

We informed you, when we came here, that it was our intention to open our hearts to you freely. We will not conceal any thing from you. We therefore tell you plainly, that we have, after encountering many difficulties, and expended much time and labor, obtained for you the most favorable terms in our power. The Ogden Company have with difficulty been brought to agree to the terms of this treaty ; and it is our opinion, which we desire you distinctly to understand, that if the present terms are rejected, you will never be able to obtain as favorable ones hereafter.

There are among you wise and judicious men, who understand your interests, and are capable of deciding what will best promote the happiness and welfare of your nation. The question at issue is now plainly before you. It is, will you prefer to occupy two of your reservations as now proposed, or will you relinquish the whole, according to the stipulations of the amended treaty, and remove to a distant wilderness ?

We repeat that it is not our purpose to dictate to you what course you shall pursue. The object of our coming here at this time is to lay before you all the advantages we have been able to secure for you, that you may be made acquainted with and fully understand your situation, and the alternatives before you. If, after considering the subject, there be any point upon which you may think our advice could be useful to you, you know we have always been your friends, and are disposed to render you our best service. Should you now, therefore, want our advice, we will endeavor, by the aid of the Great Spirit, to give you the best in our power.

At the time we held the council with some of you at Farmington, you requested us to tell you when we had lost all hope of doing any thing for

you. Since then we have done all that we could. We found by the treaty that you had alienated the whole of your lands. We have succeeded in obtaining the restoration of a considerable part of them to you, and we have no hopes of effecting more.

The treaty, as it is now offered to you, is not open to alteration or amendment. It must either be accepted or rejected *as it is*. This your friends have assented to, because we are convinced that if it be once open to alteration, matters might be introduced into it prejudicial to your interests, whilst there is no hope that any additional advantages whatever could be obtained for you.

Benjamin Ferris then, on behalf of the committee, returned the following additional answers to the questions that had been put by the Indians :

Question. Can the chiefs, if they desire it, have another trustee than the United States to hold their moneys ?

Answer. We are not prepared to give a positive answer on this subject, but we think that under the present very unsettled state of the monetary affairs of our country, the United States would be the best trustee that could be chosen for you. We therefore think the arrangement on the subject, as contained in the treaty, should not be disturbed.

Question. Can the money be paid immediately to the Indians for division ?

Answer. The proportion of one hundred and two thousand dollars for improvements is to be paid immediately to those who own these improvements, upon their relinquishing them, as provided by the treaty ; the other part we think must be left for the present. But whenever a change can be made that is desirable to the Indians, your friends will do for you what they think may be best in the case. As the United States have no interest in holding this money, they being obliged to pay six per cent. for it, we presume they will not object to pay it at the solicitation of your friends. The time may probably come when it may be right for you to possess the principal of these annuities, and we see no reason why the government may not be disposed to grant your request. You may rely on our co operation and assistance in obtaining for you justice at the hands of the government.

We want you to understand that this is not the final council for the ratification of the treaty, but is designed to prepare you to come to a decision in the case. If you decide to accept this treaty, a commissioner will be appointed on the part of the United States, and one from Massachusetts, to attend to its execution. If you reject the compromise, there will be no need that they should come.

Israel Jemison said :

Brothers ! I wish to inform you that it is the custom of the chiefs of the Seneca nation, when they have important questions to discuss, to examine the subjects before them fully before they decide upon them. You have explained this treaty and its provisions to us ; we will deliberately consider it ; we do not know what the minds of the chiefs are—therefore we cannot tell when we will return you our answer.

You are now at liberty to retire from the council, when you desire to do so, and we will discuss the matter among ourselves.

Benjamin Ferris, on behalf of the committee, then added :

We wish to say a few more words before we part, in answer to the question, whether there is any thing in this treaty which obliges the emigration party to remove ? The treaty you have heard read is a treaty with the Sen-



eca nation, and not with any party, either an emigration or non emigration party. This is explained in the address we have already read to you. We now propose to leave you for the present, and at any time you may desire we will meet you again. If at such time you have any other questions to ask, we will endeavor to answer them. When you have nothing further to ask by way of explanation, we will feel ourselves at liberty to return to our homes, but will leave our friend, G. M. Cooper, to receive and bring your answer to us.

The council then adjourned to 2d day, the 11th instant.

The council again met 4th mo. 11th, 1842, at which time the committee by invitation, attended.

William Jones, one of the chiefs, gave notice that they were now ready again to do business.

Philip E. Thomas, on behalf of the committee, remarked :

Brothers ! At the council held two days ago, we explained the reason that had led us to visit you at this time. We informed you of the efforts that had been made to procure for you an alteration in the arrangements which had been executed for the relinquishment of your lands to the Ogden Company, and the difficulties that laid in our way in effecting that object. We likewise laid before you, and carefully explained to you, the terms and conditions of the proposed supplemental treaty that has been arranged by your friends for you, and we suppose that you now understand the whole matter. We have, however, thought it would be best, before we returned to our homes, to have a parting interview with you, in order that if you desired any further information on the subject, you might have an opportunity to obtain it.

Joseph Silverheels then asked, if an Indian emigrates from these reservations, can he have his share of the lands and annuities of the whole nation ?

To which Benjamin Ferris replied : We understand, by the provisions contained in the supplemental treaty, that any number of the Seneca nation choosing to go west and settle on the lands reserved for them there, will be at liberty to take with them their share of the moneys and annuities of the nation ; they will also be entitled to the advantages of the previous treaty, which secures a remuneration to the individual Indians for their improvements ; every Indian will, therefore, be paid his proportion of the *one hundred and two thousand dollars* coming to him on that account. The treaty makes no provision for a distribution of the moneys of the nation to any Indian who shall emigrate to lands held by a foreign power.

Question by a chief. If the chiefs should ratify this treaty, and soon after conclude to go to the west, can they go ?

Answer by Benjamin Ferris. If this treaty should be ratified, the reservations of Cattaraugus and Allegany will be considered as the property of the whole Seneca nation. If the treaty should be accepted, and the whole Seneca nation be settled on these reservations, and any individual shall afterwards choose to emigrate to the country set apart for the Indians in the west, he will be entitled to his share of the annuities of the nation, which will be paid to him yearly at his new home : the treaty provides that the lands on these two reservations shall remain the property of the Indians



who will continue to reside on those lands ; but if the nation shall, at any future time, conclude to sell these two reservations, those who have removed before such sale will be entitled to their proportion of the amount of such sales.

Question by Daniel Twoguns. If the Indians, at some future day, conclude to sell the Cattaraugus and Allegany reservations, will they be obliged to sell them at the price mentioned in a former treaty ?

Answer by Benjamin Ferris. One of the advantages the Seneca nation will derive from this treaty is, that they can demand what price they please for these lands ; and if they do not choose to sell them, there is no power on earth that can force them to dispose of them.

Question by Israel Jemison. Suppose a part of the nation emigrate now to the west, and at some future day a treaty should be held to sell the lands ; can those chiefs who may have emigrated have a voice in selling the lands of the nation ?

Answer by Philip E. Thomas. By the conditions of the proposed treaty, their due proportion of the annuities will be paid, at their new residence, to all the Indians who emigrate to the west, in the same manner as if they had not removed. But, as by their removal they will acquire rights and privileges on the new lands, they cannot, after they go away, claim to exercise any control over the reservations which they may have left. There is a provision in the treaty, that should the Seneca nation, remaining on their lands, at any time hereafter choose to sell them, then whatever share of such lands would have belonged to these emigrants had they not removed will still inure and be paid to them.

According to the terms of this treaty, the full and complete right and title of the Seneca Indians to all the lands on the two reservations of Cattaraugus and Allegany are to be restored, and by deed reconveyed to them, with the same title and under the same conditions as they were held before any deed or treaty had been made ; so that neither the Ogden Company, nor any individual, will ever have any right or power to interrupt the Indians in the peaceable possession of these reservations as long as they choose to remain on them ; consequently the power to hold or sell these lands will remain exclusively in the Seneca nation, forever.

Daniel Twoguns said : According to the amended treaty, the Indians, if they conclude to go west, must remove within a limited period. Can the time of their removal be extended beyond what is mentioned in the treaty ?

Answer by Benjamin Ferris. The only restrictions as to the time of removal are contained in the treaty of 1838 ; by that treaty the President of the United States has the power to extend the time beyond the period therein mentioned. That power will remain with the President, because the treaty remains in force, except so far as it is altered by the present treaty.

Oliver Silverheels said : The Secretary of War some years ago proposed to the Indians, that in case they would consent to remove to the west, and were not satisfied with the lands the government had reserved for them, they might select other lands belonging to the government to settle on. Would the government now renew such a proposition to the Indians ?

Answer by Benjamin Ferris. An attempt was lately made to obtain lands from the Sacs and Foxes for the Indians that dwell east of the Mississippi river. That attempt was made, we understand, in consequence of a desire to remove the Indians from the Territory of Wisconsin, which lies

east of the Mississippi river. We also understand that all the influence of the government to procure a territory there has failed; and we therefore believe that if any of the Seneca Indians incline to remove to the west, they will have to occupy the territory already assigned them.

Wm. Crouse inquired, if the Indians conclude to remove to Cattaraugus and Allegany, will they be entitled to their proportion of the appropriation of the United States government by such removal?

Answer by B. Ferris. There is no provision in the treaty for such an appropriation. The Indians that remove from Tonawanda and Buffalo will be individually paid for their improvements, according to the terms prescribed by the treaty.

We wish the Seneca nation distinctly to understand the position they now occupy. By the treaty which has been ratified, all their lands are sold to the Ogden Company. They therefore now own no lands. By the proposed supplemental treaty, two reservations are to be reconveyed to them by deed; in which case, they will then own those two reservations. By the present arrangement the Indians are the grantees, and the Ogden Company the grantors; and therefore there is no provision for paying more than the price of the conveyance. By this treaty, the Indians do not give any thing; they are only the receivers.

\* Israel Jemison, after premising that what he was about to say was on his own responsibility, and not on behalf of or by authority of the chiefs, remarked:

I will never say that I have parted with my lands. I have never signed any instrument conveying these lands to the Ogden Company. I believe if the chiefs, or a majority of them, ever conveyed these lands to the Ogden Company by good and sufficient title, that company would never be willing to convey them back again. For my part, I conclude that because they are now willing to restore these two reservations, they consider the contract was fraudulent and not valid.

It is my opinion that the white people will resort to any means to deceive the Indians. Because we are few and weak, they think they can do as they please with us: they take advantage of our weakness, to cheat and deceive us.

We were told last year by the Secretary of War, in a written communication read to us by Daniel Kurts, that if the Indians did not wish to remove to the lands the government had assigned them in the west, but should prefer to remove to another place, they might do so. It seems now that this proposition was made to gain influence and obtain votes in favor of the treaty. The laws of the United States required that the Indians should emigrate to the Indian territory; and yet this proposition was made by the Secretary of War!

Brothers, the white people understand how to deceive; they know how to make statements and propositions that shall appear plausible to the minds of the Indians: they say one thing, and at the same time mean another.

It is my determination, from this time forward, never to consent to part with these lands or any thing that I have. If an individual proposes to purchase my lands, and I do not wish to sell, he cannot have them. He may, if he has the power, and thinks best to use it, compel me to part with my property; but while I have a voice in the matter, my answer will be—you cannot have it.

If I consent to this treaty, my mouth will be shut; I shall then have no

voice in the sale of my lands. Now, I think, in order to make a contract valid, both parties ought to have a voice in making that contract. I shall therefore not consent to this treaty.

\* John Black Smith, a Tonawanda chief, after premising that what he was about to say was upon his own responsibility, and not by any authority of the chiefs, said :

Brothers, you have now laid this treaty before us, and explained its provisions. I told you at the council at Farmington that the Indians of Tonawanda would never consent to part with their lands, and remove to the west.

I said then what I say now : I will never do it. I told you that not one of the chiefs on the Tonawanda reservation had signed any treaty since the commencement of this negotiation ; neither have they received any money from the Ogden Company. Now, the treaty before us is a proposition from that company to the Indians, and the provisions therein contained I do not approve of, and will never consent to them.

Tunis Halfstow then rose, and stated that he wished to say a few words on behalf of the Allegany chiefs :

It seems, from the treaty now before us, that two of the reservations will be restored to the Indians, and it appears to me that we have only to accept or reject it. But as two of the chiefs have expressed their own views in relation to it, a question occurs to me, whether, if the chiefs of the two reservations accept it, and only a few on the Buffalo and Tonawanda reservations unite with them, will that be sufficient ?

Answer by B. Ferris. It is our judgment this must be determined according to your custom of settling all your national affairs ; it must be the act of the nation ; you must accept or reject it according to your usual mode of doing business.

Daniel Twoguns said : Since you have done so much for the Indians, and spared no pains in your labors for them, and have now laid before them the terms of a compromise, what is your advice in this matter ? is it better for the Indians to accept the compromise, or not ?

The committee, before answering this question, requested to be informed whether it was *the wish of the nation* that we should give them our advice ; if it was, we were prepared to tell them what we thought would be best for them.

After consulting a considerable time, it was concluded by the chiefs not to ask the advice of the committee on the subject. Some of the chiefs remarked, that if we gave them advice, and they did not follow it, it might be considered as a breach of friendship ; whilst others thought they would be bound to take our advice in case they asked it ; they therefore concluded to decide the matter among themselves.

Benjamin Ferris then remarked :

Brothers ! We have now heard what you had to say in relation to injuries that have been committed on your nation by the white people ; our hearts have bled on account of the wrongs that have been inflicted upon you. When we undertook your case we found you in difficulty and trouble ; for three years we have faithfully labored for your benefit, and we have now submitted to you the result of all our labors ; we want you to reflect ; and after mature consideration, to decide for yourselves. If you

\* There are the only chiefs, who attended the council, that did not assent to the supplemental treaty.

accept the present treaty, we have explained to you what you will secure by it. If you reject it, you are aware that you will be exactly in the same position you were before this attempt was made for your benefit.

In relation to what was said by a former Secretary of War, (J. R. Poinsett,) when he informed you the government would procure other lands for you in the west than those already set apart for the Senecas, we believe it right to state that, in our opinion, that proposal was held out in good faith, because we know a delegation was afterwards appointed by the government to proceed to the country west of the Missouri, and we believe that strenuous exertions were made to obtain such a territory ; but there were so many difficulties laid in the way by the whites and Indians already located there, that the object was defeated.

When the council was opened, we read to you an address, which contained the result of all our labors and deliberations in your behalf. It is our intention to leave with you a copy of this address, in which our whole mind is explained ; one of our friends will also remain with you to receive your decision, and he will send it to us.

And now, having fully communicated to you the business we had in charge, we leave the whole subject with you for your own consideration and final decision.

William Crouse then spoke on behalf of the chiefs, as follows :

Brothers ! You have now given us your communication, and explained the whole of your business, so that all our chiefs understand it.

Brothers ! You may expect that this subject will be thoroughly examined and discussed by the chiefs, and some determination will be come to by them ; we understand that one of your number will remain here to take our answer to you ; we like that arrangement.

Brothers ! You are about to leave this council and our nation. We will take you by the hand, as our meeting is about to close with you. We hope you may return to your homes in safety, and that the Great Spirit will protect you in your journey, and enable you to reach your families in good health.

Brothers ! We must leave all things to the kind care of Him who rules over the affairs of nations, and hope that our decision may be such as will promote the good of all, and be most for the advantage of our whole nation.

John Jackson then addressed the following remarks to the council, on behalf of the committee :

Brothers ! We are now about to leave you, and return again to our families. You told us, when this council was opened, that it was a long time since there was a full understanding between your fathers and our fathers ; that there should be a free and friendly intercourse between the Society of Friends and your people ; we rejoice that this friendly intercourse has continued down to the present time ; and we desire it may continue while you exist as a nation.

When we undertook to assist you in your present difficulties, we had no interest or selfish motive in view ; we believed you were an injured and oppressed people ; we thank the Great Spirit that he has opened our ears to hear you, and has enabled us to feel and sympathise with you in the many difficulties by which you are surrounded.

We have laid before you the important concerns that were intrusted to us ; we have opened our minds to you freely ; we leave you to deliberate on these subjects ; to judge for yourselves, and to come to your own con-

elusions. We desire that your decisions may be so directed by that wisdom which is from above, that whatever you do may result in the happiness and prosperity of your people.

Brothers! In conclusion, we now bid you farewell. We shall continue to feel a deep interest in whatever concerns our Indian brethren; and should trials and difficulties hereafter overtake you, we shall endeavor to be prepared to embrace every opportunity availingly to assist you, and to plead your cause.

The committee now withdrew, leaving the Indians in consultation upon the matters that had been laid before them. By the following letter, since received from our friend Griffith M. Cooper, we have been informed of the result of their deliberations:

BUFFALO RESERVATION, STATE OF NEW YORK,  
4th month 15th, 1842.

MY DEAR FRIEND: After the committee of Friends had closed their labors, and withdrawn from the general council of the Senecas, on the 11th of this month, I continued here, in accordance with the request of the committee, and regularly attended the council every day, for the purpose of giving such further information, on behalf of Friends, as might be desired.

The conditions of the proposed supplemental treaty had been so clearly opened and explained to the chiefs, that they appeared fully to understand all its provisions. There was a very general attendance from the four reservations, and a deliberate discussion, upon every article of the treaty, took place. The council, which had been opened on the 9th instant, met daily, and did not close its sessions until this evening, when the question upon the acceptance or rejection of the proposed treaty was finally decided.

In a letter addressed by the Indians to the Secretary of War, and which they have requested me to transmit to the committee, to be by them delivered, they say:

“We agree to accept of the proposition for a supplemental treaty, as that treaty has been read and explained to us by the committee of the Society of Friends, and to give our assent, in due form, to said treaty, when it shall be presented by the proper officers on the part of the government of the United States, and when the Ogden Company shall have complied with the stipulations of said treaty on their part;” and “we request the government to make the necessary arrangements for the execution of said treaty, by sending the necessary officers on the part of the government of the United States, and of the State of Massachusetts, and of the Ogden Company, to meet us in council, on the Buffalo Creek reservation, on the 16th day of May next, or at the earliest convenience of the government.”

This letter was signed by 79 chiefs, which included all of them that were present, except two.

Although the council have, as here stated, agreed to accept the treaty on the conditions offered, yet, at the same time, they have informed the Secretary of War that they are very desirous to be allowed a longer time than is limited to remove from the improved lands now agreed to be relinquished; and have also requested a modification of some of the other conditions, which they have explained to the Secretary, and requested the aid of Friends in effecting.

The council, in concluding their communication to the Secretary of War, further say:



"We have strenuously maintained, and we still believe, that the Seneca nation, as such, never has assented to the sale of our lands to the Ogden Company; but we think this compromise better for us than to adopt any other means in our power for obtaining redress; yet, as an injured and oppressed people, we throw ourselves upon the mercy of the government, entreating that, if it be possible, the government would obtain for us these proposed alterations. But if this cannot be done, we must submit to our fate."

Notwithstanding we have not gained for the Indians all that we could have desired, yet it is a circumstance most gratifying to us that, by this arrangement, the forcible expulsion of these greatly injured people from the country descended to them from their forefathers is prevented; and that, although, under this arrangement, they will be deprived of a portion of their lands, yet they will receive some compensation for the part now to be alienated, and it is believed will retain a sufficiency on which they may, with industry, secure a comfortable subsistence.

Situated as we now are, our position towards these people has become one of deep responsibility. They are poor, and feel very helpless. They believe there are none but the Society of Friends on whom they can safely rely, and they have an unshaken confidence that we will not desert them; and this opinion has had a powerful influence upon their recent deliberations.

They have arrived at a crisis never before presented; and a large field for labor is about to open, in which their friends may use the means which a benevolent Providence has put in their power to rescue from extinction and secure the civilization of this remnant of the Seneca nation of Indians, and I greatly desire that our hearts may respond to the call. The circumstances by which they are surrounded, and their almost universal desire for education and improvement in the arts of civilized life, conspire to insure to our labors a favorable result, and to crown our exertions with a successful and happy conclusion.

The council which has just been dissolved was closed with an expression of fervent gratitude to the Great Spirit for his continued goodness in keeping the chain of friendship bright between their old friends, the Quakers, and the Seneca nation, and with the expression of an earnest desire that this friendship may never be dissolved until the Senecas shall cease to exist.

It affords me a sincere gratification to be able to add, that by this effort on the part of Friends, which is about to be brought to so happy a termination, the animosities that had been engendered amongst the Indians by artfully designing individuals, on the question of their emigration to the west, are likely to become healed, and that peace and concord will again be restored amongst them; all parties having appeared cordially to unite in the final conclusions of the late council, and to have separated with a manifestation of reciprocal good feelings towards each other.

Thy affectionate friend,

G. M. COOPER.

PHILIP E. THOMAS.



It may not be irrelevant to the subject of this narrative to state that during the stay of the committee at Buffalo a meeting for divine worship was held on the Indian reservation, and was attended by a large number of the Senecas.

On this occasion an opportunity was afforded to open some views in relation to the nature of true religion, and its happy influences on the condition of man.

It was shown that vital religion does not consist in mere abstract opinions, nor in the speculative theories of men, nor yet in the performance of external rituals or ceremonies; but in an unreserved obedience and practical adherence to the teachings of the Holy Spirit, which the Author of our being has, in his great mercy, throughout all ages of the world, been pleased to dispense to his rational and accountable creation; and that it is by the aid of this Divine illumination that man is enabled to advance in a knowledge of the attributes of the Great Spirit, and is made happier in time, and prepared while on earth for an inheritance in that kingdom of rest and peace which shall never have an end.

The reality of this illumination—its universality and its entire sufficiency for all the purposes of salvation—were demonstrated by Scripture testimony. These views were clearly opened to the audience, and were shown to be in accordance with the declaration of the inspired Apostle, when he affirmed, "the grace of God that bringeth salvation hath appeared to all men, teaching us that, denying ungodliness and worldly lusts, we should live soberly, righteously, and godly in this present world."

Towards the close of the meeting an aged chief rose and addressed the congregation in his native tongue. The impressive manner in which his communication was delivered, and the solemnity that prevailed over the audience, gave evidence that he spoke "not with enticing words of man's wisdom, but in demonstration of the Spirit and of power."

We afterwards learned that the substance of his testimony was an expression of unity with what had been spoken, and an affirmation of its accordance with his own experience. He also acknowledged his deep sense of gratitude to the Great Spirit for having favored them with the present opportunity; and then appealing in an earnest and affectionate manner to those around him, particularly to the youth, he urged them to appreciate the labors which Friends had bestowed on their account, and to treasure up in their minds the good counsel that had this day been given to them, and concluded by declaring it to be his solemn belief that it was only by obedience to the inward teachings of the Great Spirit, to which their attention had now so affectionately been commended, that they could hope to enjoy a peaceful mind in this world, or be prepared to partake of the joys of that which is to come.

Thus an additional evidence was afforded that the aboriginal mind is capable of fully comprehending the essential doctrine of the Christian religion; confirming the views of the enlightened Apostle, when he declared, "that God was no respecter of persons; but in every nation he that feareth Him and worketh righteousness is accepted with Him."

*Proceedings of the second Indian council, held at the Buffalo Creek reservation, State of New York, 5th month 16th, 1842.*

Present—Ambrose Spencer, commissioner on the part of the United States; Samuel Hoar, commissioner on the part of Massachusetts; Abraham Dixon, delegate from the legislature of New York; Thomas L. Ogden and Joseph Fellows, agents of the Ogden Land Company; Philip E. Thomas, Moses Sheppard, Joseph S. Walton, Benjamin Ferris, John Leggett, Griffith M. Cooper, and Isaac Post, representatives from the general committee of Friends of the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee; and the chiefs and headmen of the Seneca nation.

The council was called to order by Stephen Osborn, Indian agent, when Governor Black Snake, a venerable war chief of the Allegany reservation, aged above ninety years, said, through the interpreter, that if the commissioners were ready, he desired to make a few remarks. On being requested by the commissioner on the part of the United States to proceed, he said:

BROTHERS! I am happy to say that I feel much gratified to meet here in council the commissioner appointed by the government of the United States and the commissioners from the States of Massachusetts and New York; and also the Friends we met here on a former occasion. I desire to return thanks to the Great Spirit for preserving us all on our journey to this place. Some of you have come a long distance, and it is to the protection and goodness of the Great Spirit that we are indebted for our preservation and for whatever good we enjoy.

I have been instructed by the chiefs who are here to inform you that only part of our number are now present. We expect the remaining chiefs from Cattaraugus will be here this afternoon, and the Tonawanda chiefs will be here by to-morrow at 10 o'clock.

To which the commissioner on the part of the United States replied:

BROTHERS! I am here as commissioner on the part of the United States, by whom I have been delegated to meet you this day in council. The gentleman on my right is a commissioner appointed to attend on the part of Massachusetts, and the gentleman on my left has been delegated to attend here on behalf of the senate of the State of New York. We unite with you in returning thanks to the Great Spirit for bringing us together, that we may deliberate on the matters about to come before us. The subject is one of vast importance to you. You are aware that we can have no possible interest in the issue; and we hope and trust, with the blessing of the Great Spirit, that our conference will be followed by happy results, both to you and to all others that may be concerned.

Inasmuch as it appears that only a part of your chiefs are now present, we propose to adjourn the council until to-morrow at 10 o'clock, when we hope the matter will be brought to a satisfactory conclusion. Till then, we bid you farewell.

The council then adjourned.

### THIRD DAY—FIFTH MONTH 17, 1842.

The council met pursuant to adjournment. Present, sixty-four chiefs. The chiefs were asked if those present were ready to proceed.

N. T. Strong, an educated chief from the Cattaraugus reservation, re-

marked that they "had better not go too fast." It appeared that there were but three chiefs present from Tonawanda, and they were not ready. More would arrive by noon. All the Alleghanies were present who were expected. A chief from Tonawanda said that the Indian agent had never notified them of the council. They first heard it from the Friends whom they saw at Lockport.

John Hudson, a chief, observed that runners had been sent to bring in the chiefs from Tonawanda and Cattaraugus reservations, who had not yet arrived: the council was therefore not ready to proceed to business, but they expected the absent chiefs would arrive to-day by noon.

The commissioner on the part of the United States:

BRETHREN! We met you here yesterday according to the appointment of the Secretary of War, and supposed all the chiefs had been notified of the meeting. Mr. Osborn, the Indian agent, told me that he gave notice to several of the Tonawanda chiefs of the meeting to be held yesterday, and I now wish to know whether the majority of those present are for proceeding now, or putting it off till 12 o'clock.

Upon the question being taken, it appeared that a majority of the chiefs were in favor of at once proceeding to business; upon which the commissioner on the part of the United States remarked that, notwithstanding the council would now proceed, if any more chiefs came in and wished information, it would be given. He then addressed them as follows:

*Chiefs, headmen, and warriors of the Seneca nation of Indians residing in the western parts of the State of New York:*

BRETHREN! Your great father, the President of the United States, has appointed me a commissioner to hold a treaty with you respecting a modification or change of a treaty made by you with the United States on the 15th of January, 1838.

The Commonwealth of Massachusetts, to whom belonged the right of pre-emption to a large part of western New York, and particularly your reservations, has appointed the Hon. Mr. Hoar as a superintendent of our proceedings, the more effectually to guard and protect your rights.

The Hon. Mr. Dixon also appears here, under a resolution of the Senate of New York, for the like purpose.

I now come before you clothed with the authority of the United States, as such commissioner of the United States, to enter upon the business of my appointment.

Brethren! Your great father, the President of the United States, has heard your complaints against the late treaty, by which you conveyed to Messrs. Ogden and Fellows all your four remaining reservations, the Buffalo creek, the Cattaraugus, the Allegany, and the Tonawanda. The treaty made on the 15th day of January, 1838, after an amendment by the Senate of the United States, was again submitted to you and received your sanction; and on the 4th day of April, 1840, it was proclaimed by the then President, Mr. Van Buren, as the law of the land, and as such is binding on you and them.

Brethren! Your steadfast, and benevolent, and best friends, the Quakers, believing that the treaty of the 15th day of January, 1838, as amended, had been improperly obtained, and that its provisions were hard upon you, particularly as it compelled you to emigrate to a region west of the Missouri,

against the will of many of you, have exerted themselves to the utmost to obtain an alteration of that treaty, and, through the instrumentality of the Secretary of War, have at length succeeded in inducing the Ogden Company—so called, that is—the persons benefited by that treaty, as having the right of pre-emption to your reservations, to consent to a modification or change thereof.

Brethren! By this modification or change you will retain and have restored to you two of the four reservations, the Cattaraugus and the Allegany, and these you and your posterity can hold, occupy, and enjoy forever, if your race continues, and if you and your posterity choose to keep them; and thus you will be spared the necessity of emigrating, and the treaty of 1838 will still remain in force as to those who choose to emigrate.

Brethren! The treaty now about to be offered to you is the same, with one exception, that was read and explained to you by your friends, the Quakers, at a council held with you on the 9th of last month, and which 79 of your chiefs, under their signatures, informed the Secretary of War had been accepted by you.

By the kind interposition of the Secretary of War, the time for your removal from the Buffalo creek and the Tonawanda reservations has been extended to two years instead of one, leaving such of you as may wish to remove at an earlier day at liberty to do so, and providing to such as wish to remove before the expiration of two years prompt payment for the improvements they may relinquish; and this is the only material alteration from the project of a treaty submitted to you on the 9th of last month.

Brethren! You also made two other requests; one that 2,500 acres of the Tonawanda reservation might be reserved to your brethren who reside on that reservation, and another that the privileges you had granted to the Hydraulic Company should be secured to them. It was found impracticable and inexpedient to insist on these requests. The agreement between you and the Hydraulic Company is a private and personal concern, with which the United States have nothing to do; and the persons interested must negotiate with the Ogden Company, who I trust will do what is just.

Brethren! I have already said that, by the treaty now submitted to you, and to which you have informally agreed at your council in April last, you will have receded to you, in as full right as you ever enjoyed them, the Cattaraugus and the Allegany reservations. I will now proceed to read over and have interpreted the treaty now proposed to you.

[The treaty was then read by paragraphs, and interpreted to the council.]

Brethren! I shall say nothing to influence you. It is for you to determine, with the advice and assistance of your real friends—friends who have labored and toiled for you—whether the treaty now offered to you is or is not greatly to your advantage, and much more so than the treaty of 1838.

It is my duty, and I am armed with power for that purpose, to take care that your deliberations shall be free, and that our councils shall not be interrupted. It is my duty also to take care that a majority of your chiefs and headmen sign the treaty in a sober state of mind, and in full council.

Brethren! As a New Yorker I am proud to say that your rights, and the rights of all the Indian tribes within our borders, have always been respected and observed, and that you, and all the Indians in this State, have been treated justly and humanely. We mourn over your misfortunes and your decrease in numbers, and we would do all in our power to elevate you.

condition—to civilize and christianize you ; and we pray the Great Spirit may direct and preserve you.”

The commissioner from Massachusetts addressed the council as follows :

“ My Friends ; I am very happy of the opportunity afforded me of meeting you on this occasion. I am very glad and thankful to the Great Spirit that he has preserved so many of you, and brought you together in health at this time, that you may deliberate upon a subject of great importance to you. The State of Massachusetts, in whose behalf I come, feels an interest in your welfare. The governor of Massachusetts has directed me to come here to meet you on this occasion, and to furnish you such aid as is due you from the State of Massachusetts. I am not instructed to advise you to sell your land, or part with it, or remove from it, or from any portion of the same, unless you shall freely choose to part with it. If you believe that you have more land than is useful to you, if you think you can make a better use of the money for which you may sell your land than of the land itself, then you may do so with the full approbation of the State of Massachusetts ; but if, on the contrary, you believe that the whole of the land you now occupy is necessary for your comfort ; if it is disagreeable for you to remove ; if it will be inconvenient for you ; I wish you to understand that the State of Massachusetts will never consent to have you removed from your present possessions : they consider you as having the right to decide on the question of sale ; they do not intend to judge what will be for your welfare. My desire is to inquire if you understand the contract you are about to enter into ; and if each and all of you do not understand every part of it, that you will make known your doubt, that the contract may be fully explained to you. If, after you have understood this to your satisfaction—if it has already been explained to you, as I am informed by those who are your best friends, as well as the friends of humanity, the Quakers—you now approve of the contract, then the State of Massachusetts will ratify the same, and you have their full consent to do so, and their prayers that it may be for your good.

“ My Friends : I have now no more to say, but to attend to the negotiation as it proceeds ; and if I can be assured that you are satisfied with it, I shall be content, as I shall be sure that my duty has been performed.”

The commissioner on the part of the United States : “ I do not rise for the purpose of entering into any argument at all ; but I do feel called upon to make a few remarks in consideration of what has been said by the commissioner from Massachusetts. I have no personal interest whatever in the matter. The trifling sum I receive for coming here will hardly pay the necessary expenses of my journey hither. I trust that the age to which I have arrived, the public services I hope I have rendered, will secure me in your opinion that I have no desire to misrepresent the matter.

“ The honorable commissioner on the part of Massachusetts has not said one word concerning the treaty of 1838. That treaty has been approved ; it has gone through all the forms of law, and has been ratified in such a manner by the Senate of the United States, that your father, the then President, Mr. Van Buren, proclaimed it as a law of the land, and it is binding upon all. I know it has been loudly complained of by you ; I know that your best friends, the Quakers, have complained of it ; I know, also, that they have endeavored, by every effort in their power, to prevent that treaty from being ratified by the President and Senate of the United States. They have taken counsel in the case ; and notwithstanding all the



objections to it, upon the fullest and deepest consideration they have been able to bestow upon the subject, they have been induced to recommend the treaty that has been presented for your adoption. It is not for me, nor do I mean to give any opinion as to the validity of that treaty. It stands upon the statute book as the law of the land. In view of the disagreements, the difficulties, the lawsuits that may arise, I understand the Quakers here to say that it is their opinion that what they have advised is for your best interest. Having availed yourselves of their advice, you are to act freely; and if, upon the view of the whole subject, you are satisfied on the whole that it will be best for you, amen! But if, on the contrary, you decide to reject the contract, the government has no more to say, and I shall not complain."

The commissioner from Massachusetts replied:

"My Friends: I think it due to the gentleman who is appointed commissioner on the part of the United States, as well as to you and to myself to say one word more. I am gratified that the views that I have entertained and expressed are so much in accordance with his, and I can fully approve of what he has said. It is true I did not mention the treaty of 1838; I was not because I had not heard of that treaty, but because I did not desire to give any opinion about it, or of its validity. I did say, and I now repeat to you, that the Friends will not intentionally deceive you. I may have an opinion—a very decided one: you yourselves know if your contract was fairly made; on this point I do not desire to speak, but I wish you to understand that I desire you to be left free to decide on that point for yourselves. If you should think that a judicial trial of your rights with the Ogden Company on their claim, under the treaty of 1838, would be expensive and troublesome to you, it may be very proper for you to take this expense and trouble into your consideration, in determining whether it is best to accept the treaty and compact now offered to you."

The chiefs of the council requested the remainder of the day to themselves, that the several tribes might consult together. To which the commissioner on the part of the United States replied:

"I treat with the whole Seneca nation, and not with the separate tribes: I have no objection to their consultation, but I must have a reply of the whole nation, and not from the separate tribes. I would observe that, although my friend, the commissioner from Massachusetts, uses a little different language from me, our opinions concur. We are here from a great distance, and at considerable expense, but will adjourn to 10 o'clock to-morrow morning, and wish you would proceed as fast as possible in your consultation, and be ready to come to a decision when we meet you. And we hope you will not protract the council unnecessarily, but diligently use the time till to-morrow."

The council then adjourned till 10 o'clock to-morrow.

#### THIRD DAY—AFTERNOON, 4 O'CLOCK.

The council again met at 4 o'clock this afternoon, when the commissioners and the committees of Friends, by invitation from the chiefs, attended.

The commissioner on the part of the United States addressed the council as follows:

"Brothers and Friends: I did not expect you to meet again until to-morrow; but, having been informed that you have not correctly understood



the commissioner from Massachusetts, we have returned that he may make an explanation to you."

The commissioner from Massachusetts then said :

"Friends and Brothers : I should be extremely sorry that any thing I should have said should produce injury or suffering to you. I have been informed that some of the chiefs now present have intimated that I said you might consider yourselves untrammelled by the treaty of 1838, and that the State of Massachusetts would defend you in your present possessions, unless you should now prefer to part with them. What I intended to say was this : the governor of Massachusetts sent me here to ascertain whether you clearly understood the bargain you were about to make ; and that, understanding all the facts in the case, you should yourselves determine whether it was best for you to agree to the proposed treaty or not. I desired that you should take into consideration all the circumstances connected with the subject, and that you should then yourselves decide what was best for you to do.

"It is true, as has been stated by the commissioner on the part of the United States, that I did not speak to you about the treaty of 1838. The reason was, I did not intend to give any opinion on the validity of that treaty. I had heard that some of you believed it was fraudulently obtained ; others thought differently. My government did not authorize me to give any opinion on that point. I repeat to you that on this subject I did not intend to give you any opinion. Your circumstances are well known to the Friends who are now present, and I refer you to them, as your sincere friends, for advice. That treaty exists : whether it be good or bad, I give no opinion ; but I would say, if you want an opinion, why should you look to me for one ? I was not sent to give it to you. You have friends here who are fully able and willing to advise you ; they know more about it than I do. They know your wants ; they can judge for you ; and I now again refer you to them."

The commissioner on the part of the United States remarked :

"Your friends, the Quakers, at the council held with you in April, gave you their advice in writing. There may be some here present who did not hear that advice ; do you desire again to have it read ?"

A number of the Indians expressed a wish to hear it, and it was read and interpreted to them.

After reading this communication, Philip E. Thomas addressed the council as follows :

"Brothers ! We have this day repeated the words that we spoke to you at the former council, when, by permission of the Great Spirit, we were favored to meet at this place ; we have repeated these words to you as the deliberate judgment of your Friends.

"We did then believe, and we still continue to believe, that, by the treaties into which you had been drawn, before we had any knowledge of your situation, your condition had become one of great difficulty and embarrassment ; and, after much and anxious inquiry into all the circumstances of your case, we could see no way by which you might procure relief but by accepting the proposed supplemental treaty that had been obtained for you, and by which a home is secured to you.

"I caution you that it will be unsafe to depend either upon Massachusetts or New York for protection. After what you have this day heard, you can have no hope of relief from them ; and it is proper you should distinctly understand this. The people and authorities of those States are

friendly to you, and they sincerely desire your welfare ; but so far as regards any ability to extricate you from your present embarrassments, they, I tell you, are wholly powerless ; and I repeat, that even if they have the disposition, they are not able to do it. We live under a government of laws, and by these laws the powers of the government are defined and limited.

“ The commissioner from Massachusetts has admitted that he does not come here to extend to you any protection, but to see that you clearly understand the treaty upon which you are now about to act. This he has avowed is the purpose of his visit, and strictly to this object will his mission be confined.

“ Brothers ! It is probable that this will be the last time I may ever have an opportunity to meet you in council. It is, therefore, my duty to speak plainly and frankly ; and I now again tell you that you are surrounded by many serious difficulties ; which not only threaten your personal safety, but eventually may even lead to the dispersion and ruin of your nation.

“ I make these remarks that you may not be ignorant of my opinion as regards your real situation. I have devoted much of my time within the last two years to your concerns. Indeed, I believe I can say that I have given more of my attention to them than to my own affairs, and have had the opportunity of becoming thoroughly acquainted with them ; and I now earnestly admonish you to beware of any precipitate or rash conclusions. Think well before you decide. For myself, I plainly declare that I see no avenue by which you can possibly escape from the perils that encompass you, but by accepting the proposed supplemental treaty. Believe me, that it will not be wise in you to depend either upon the State of Massachusetts or New York for any available protection. I plainly warn you not to do this, because it is important that you should, as regards this matter, remain under no mistake.

“ Brothers ! We have now opened our hearts freely and fully to you. You know us too well to doubt for a moment our sincerity, or to believe that we are capable of intentionally deceiving you.

“ Brothers ! It only remains for me to assure you of my fervent desires that the Great Spirit may continue to you the extension of his goodness and protection, and that he will so overrule your counsels on this momentous occasion, that your deliberations may result in the lasting good of your nation and people.”

The delegate on the part of the legislature of New York then rose and said : “ I appear here by virtue of a resolution of the senate, as a delegate from the legislature of the State of New York.

“ Brothers ! You know that this State has always treated the Indians with indulgence and humanity. We have enacted many laws for your protection and benefit, granted you liberal annuities, and paid them punctually ; and we have never taken from the red man his lands in any other manner but by honorable purchase and a fair equivalent. The people of this State have deeply sympathized with you in your difficulties with the Ogden Company in relation to your lands. The legislature participated in this feeling ; and while they had the subject under consideration the last winter, they were rejoiced to learn that a door had been opened by which you might escape from dangers which you and others thought awaited you, and they sent me to be present on this occasion to give you such assistance and advice as I could. But it is important you should understand the nature

of the aid which the State proposes to give, and that you should know that all she can do for you is to give you counsel, instruction, and advice, and enable you fully to understand the stipulations of the treaty which is now offered for your adoption or rejection.

"You are under the protection of the laws of this State, and to a degree you are liable to their exactions and restrictions, like our own citizens. Ours is a government of laws, and not of force. It is impossible to protect our own citizens against improvident contracts of their own making: when, therefore, it is said by our friend from Baltimore, Mr. Thomas, that the State is powerless to relieve you from the embarrassments of the treaty of 1838, he states no more than is true in relation to our own citizens. If that treaty should be pronounced valid by our own courts, it would not be possible for the State of New York to extricate or relieve you from the execution of it. If the State were disposed to do so; if we should rise in arms to protect you in the possession of your lands, we could not do it—we are but a handful when compared to all the people of the United States who would come against us.

"You have already been told that it is not the business of the commissioners to give you legal advice, and to declare whether the treaty of 1838 is valid or invalid. These benevolent gentlemen who have espoused your cause, and devoted themselves with such untiring perseverance to your welfare, and to your relief from this embarrassment, may truly and emphatically be styled your friends and the friends of humanity. They have told you that they have taken the best legal advice the country affords; and that the result of these inquiries is, that the treaty being executed according to the forms of law, it is considered doubtful whether it can, by the courts, be declared void. I do not say that this is my individual opinion. This is a very grave question, upon which I am not willing at present to hazard an opinion; and if I should, it would be entitled to very little consideration if it should differ from the very high authority which they have obtained.

"If you deem this question important to your present deliberations, and are not satisfied with the advice you have already had on the subject, you ought to deliberate further, and take the counsel of men learned in the law for yourselves. I hope, brothers, that your deliberations will result in unanimity at present, and in your final happiness and prosperity."

The commissioner on the part of the United States addressed the chiefs as follows:

"Brothers! We shall meet again to-morrow. In the mean time I beg you to reflect on what I say. There are a great many interested white persons who may state facts so as to mislead you. I advise you not to listen to them. You have heard the advice of your friends, the Quakers, who, ever since the days of Mr. Penn, have been the unwearied friends of your nation. Let their words and counsel sink deep into your hearts. It comes from men who can never, who will never say ought to deceive you; who have labored and toiled, and made a long journey in the most inclement weather, to the hazard of their health and life, to give you their counsel."

John Black Smith, of the Tonawanda reservation,\* "wished to say to

\* The Tonawanda Indians reside on Tonawanda creek, south of lake Ontario. They have never been under the care of Friends, nor have they admitted a missionary into their settlement, and but few of them have made any profession of Christianity. A part of their clan reside in Upper Canada, and it is supposed that if compelled to remove, many of them will join their friends there in preference to emigrating either to the west or settling on the Catawagus or Allegany reservations.

the commissioners that he came in late, and had not heard the whole of the proceedings of yesterday and to-day, but understood that the commissioner from Massachusetts made a speech this morning, and this afternoon withdrew some of his remarks: he is afraid the commissioner has been influenced by the other commissioners and Society of Friends. There is something in this that he does not comprehend. The commissioner from Massachusetts stated that he came to protect the Indians and see justice done. We have been since told that Massachusetts has no power to protect us. What use is it for him to come here if he has no power? In former times, when the old chiefs made treaties with the Ogden Company, they always saw a commissioner from Massachusetts in behalf of the State. We have always thought they had power. He (the commissioner) reports the proceedings to the governor, who sanctions and makes them legal. We can't reconcile the two speeches. We understand, also, that there is a commissioner from New York. Our friend from Baltimore says he is our friend, but the commissioner has no power to protect the Indians. We are sorry these remarks are made on behalf of New York and Massachusetts. We think this State has a kind disposition towards the Indians."

The commissioner from Massachusetts: "My friends! I am sorry there should be a misunderstanding of any remarks I have made. If I understand my own remarks, there has been no change in the thoughts expressed to you: I have taken back nothing that I have said before, and cannot now do it. When I first addressed you I said nothing about the treaty of 1838. When the honorable commissioner on the part of the United States addressed you, and seemed to desire that I should have said something about that treaty, I told you I had not done so because I wished to give no opinion whatever about it. I said I hoped you would freely, fully, and without restraint, consider the whole subject; and if it was desirable for you to accept the proposition, you would do so, and Massachusetts would be satisfied. If, on the other hand, on consulting your friends here—who are your true friends—you should think best not to accept this treaty, then reject it. In saying this, I hope you will understand that I wish you not to keep out of the case the *consideration* of that treaty—you ought not to forget it. I hope you will not think it hard that I do not give an opinion on its validity.

"The governor of Massachusetts did not send me here to express such an opinion; I do not know the facts in the case. Some have asserted that the treaty was obtained by improper means; others say differently. I do not know the facts, and therefore I cannot give any opinion upon the subject. It has been stated that in all the treaties Massachusetts has had a commissioner here. Massachusetts had a pre-emption right. In the sale of it she reserved a right to see that the Indians were dealt with fairly and justly. If, in the present treaty, the commissioner from Massachusetts should think you were dealt unfairly with, and should withhold his approval, everybody would consider it a nullity, because Massachusetts reserved a right to have a voice in these transactions. Now, if understanding the facts, you think it best to make this contract, I am ready to approve of it on the part of Massachusetts. What Mr. Thomas means by saying that Massachusetts has no power, is, that the power of Massachusetts extends only to the lands lying within the State of Massachusetts, and your lands lie not in that State.

"The courts of Massachusetts have no more power here than those of any

other State or nation under heaven. You see that the agent for Massachusetts did give his assent to the treaty of 1838—whether right or wrong, he did do it. That assent was submitted to the governor and council of Massachusetts, and by that body was accepted and approved. It will therefore follow that, as respects the treaty of 1838, the gentleman who addressed you from Baltimore is correct in saying the Commonwealth of Massachusetts is powerless here."

The commissioner on the part of the United States :

"Brothers! I will explain one fact to which the gentleman has not adverted. All the lands lying between here and Herkimer were, at the time referred to, unsettled lands—not a soul living on them except Indians. There is one chief here (Governor Black Snake) who knows these facts: all the lands from here to the German flats were inhabited only by Indians at the end of the revolutionary war in 1783. These lands were called 'Crown lands,' and were claimed to belong to the King of Great Britain, and were granted by him to those who had purchased, by license, from the Indian nations. When the American people proclaimed and maintained their independence, and a treaty was made between us and the King, George III, these lands were relinquished to the United States, and the line ran through the middle of lake Erie and Niagara river on the west. Massachusetts, who had a charter from the King for all the lands from the Atlantic to the Pacific ocean, maintained that by these grants all the lands west of the settled part of New York belonged to that State. It became a question between New York and Massachusetts. It was settled in 1786 by a treaty at Hartford, Connecticut, whereby New York agreed that Massachusetts' right should commence one mile west of Geneva or Seneca lake, and take in all west of that in the State, with the exception of one mile on Niagara river. Massachusetts ceded the right of jurisdiction to this territory, retaining the right to buy of the Indians. In that contract, made at Hartford, between New York and Massachusetts, this very right is recognised, in behalf of which the commissioner from Massachusetts appears, to see that justice is done, and that every thing is done with your free consent. And now, my friends and brothers, with what I have said I take leave of you till 10 o'clock to-morrow, with the hope that you will proceed, and bring the subject to a close as soon as possible, but with due deliberation. Your friend from Baltimore stated that this State could do nothing for you. He was right; the State of New York, as he has told you, is powerless. The Ogden Company's right of pre-emption comes from Massachusetts, which has always done justly; but *they* can do nothing in this case, for *they* have no power at all."

[As the council was about to adjourn, a desire was expressed by a majority of the chiefs to extend the time mentioned for adjournment; the council was accordingly adjourned to fifth day morning, at 10 o'clock.]

#### FIFTH DAY—3 O'CLOCK, P. M.

Since the adjournment on third day, up to this time, the chiefs were in council together; they now expressed their readiness to meet the commissioners and continue the business of the meeting.

Griffith M. Cooper addressed the chiefs as follows:

"Brothers! It has appeared to our minds that our services are about drawing to a close, though a fact attends the circumstances that, to me is



personal, and in which my reputation as a man is involved. You recollect, my friends, that some two or three years since you sent a deputation to consult the Society of Friends, wishing us to interest ourselves in your behalf; and you also recollect that at that time, and subsequently, you requested us that after we should have done all in our power in relation to this treaty matter, we would honestly and candidly so inform you. From that period to the present we have been laboring for you indefatigably, and we came here last month to inform you of the result of our labors. We told you candidly and honestly, then, that we had accomplished all we could for you. The present compromise you are now deliberating upon is that result. At the time when the proposed treaty was laid before you, it was explained, I apprehend, to the understanding of every chief who heard it. It would be a reflection upon you for me to suppose you did not understand it; and after that instrument was read and explained to your satisfaction, a copy was laid upon your table; and you also recollect that after your Friends left you I remained with you six days. Therefore you had sufficient time to deliberate upon every article of that instrument. The result was, that out of eighty-one chiefs seventy-nine signed the paper, saying to the Secretary of War that you would accept that treaty as exhibited to you; but, at the same time, you asked of the government of the United States to make some alterations for you; but if the request could not be complied with, you would take it as it was. I now hold in my hand a copy of that letter to the Secretary of War, to which seventy-nine attached their names. You requested I should be the bearer of the same, and deliver it to the Secretary of War, and that I should interest myself in order to accomplish the alterations you desired. The request I complied with. I went accordingly and interceded, with all the influence I had, to effect these alterations. Now, my friends, I am coming upon a subject in which I am personally interested. I apprehend that my honor and integrity as a man are concerned. The Secretary of War expressed a regret that the time had not been fixed on at an earlier date; I told the Secretary that this was a deliberate act of yours, without any compulsion, and that the chiefs of the Seneca nation had never deceived me; that I had confidence they never would, and that I would pledge my word for the faithful performance on your part of all that you had agreed to. I considered that I had sufficient reason to make this pledge. I had been connected with you eight years, and you had never once deceived me, and this gave me confidence in you. You will also recollect that at the time the contract was explained to you, you were informed that unless you complied with the conditions, the government would not send a commissioner here; that it would be attended with great expense; but that if you did accept it, the government would send a commissioner on its part, and also Massachusetts. In this paper you requested the Secretary to send a commissioner on the 16th of May, or at its earliest convenience, to ratify this treaty. Now, my friends, I appeal to every individual of you if you are not personally implicated with me. Inasmuch as I consider my word as sacred as my life, I shall hope you will consider your word as sacred as I do mine. I have said in the commencement it seemed as though our labors were drawing to a close; because, as we had understood that there is a great division among those who had signed the contract, I was led to believe you would not fulfil the word I had pledged for you. Now, if you have altered your minds on this subject, I don't want you to involve me in the difficulty. I have felt, my friends, at many times willing, if permitted



through kind Providence, to devote my life to your service. Now I wish to ask you, my friends, one question. Suppose you do not think proper to fulfil the pledge you have made, and the pledge I have made for you; can any of you reasonably suppose I can go hereafter to Washington on a mission on your behalf? What would the government say? Why, 'You have been here once before; you have put confidence in the Indians; they have deceived you, and you have deceived us, and therefore you can retire!' That must be the reply. They would never negotiate with me as your agent, nor do I apprehend they would negotiate with you. I must confess, my friends, that within a few days I have felt much anxiety on account of my character and reputation, and also on account of yours. I want to take up as little time of the council as possible; but I thought proper to make these few remarks, and leave you to act according to your own counsel and discretion."

John Black Smith "understood that the compromise (the letter to the Secretary of War) was written by an individual here, (Mr. Cooper;) and we understood from our Friend that the Secretary of War was a great man, and the Indians were to sign that paper, when it was drawn, to ask the Secretary to appoint commissioners to come here and make a treaty."

G. M. Cooper: "I call upon every chief to say if he did not understand it as I have now explained it."

Governor Black Snake "wished to say a few words to the commissioners and the Friends. Before you came in we understood you (the Friends) were about retiring. We have thought best to invite you in once more, and hear you speak. You have now explained the matter. You have related the circumstances, as they took place at the last council, all true; we did sign the paper and all its contents—it was understood by those who signed it; perhaps his nephew (Black Smith) did not understand it. I hope the Friends will stay a while and have the matter explained. I hope that these misunderstandings will all be made plain. There are many who wish to abide by that paper they have signed. I hope you will stay awhile and be easy in your minds. These remarks came from the Allegany chiefs only. The chiefs from Cattaraugus and Buffalo will speak for themselves."

G. M. Cooper remarked, "that to correct an impression which may have gone abroad that Black Smith signed the letter to the Secretary of War, he would say that Black Smith did not sign it."

Seneca White, on behalf of the Buffalo chiefs: "Brothers, the Friends! You have finished the friendly remarks you have desired to make with regard to the subject of the compromise now under consideration. You wish an explanation of the understanding of that paper which we have signed, and of which you were the bearer. They (the chiefs) wish to know who was to blame—you or they. They wish to explain their views upon the subject. It is true you came here with the amended treaty. You read it in council, and made us understand all its different articles. After the explanation was made, some of the Friends returned home; but you, Mr. Cooper, remained. The chiefs discussed that treaty, and came to a conclusion that they would accept it; but it was not exactly such a one as they would like to make. Therefore the statements made by our brother, Mr. Cooper, are in all parts true, as understood by us. It is also true that the chiefs signed the paper. We then concluded we would make the compromise; it was so decided, and the statement of Mr. Cooper is true; the Indians approved of all the proceedings of the Friends, and asked their as-

sistance. They have full confidence in the Friends—they have assisted us much, and have not alienated our affections. We do not wish to have our friends withdraw, but hope they will remain and assist us in making the compromise. We are now in council; all the proper officers are here—the commissioner on the part of the United States; and also for Massachusetts and New York—and we do not think our friends ought to withdraw, as we have now arrived at the proper time to make the treaty. We wish to say the Society of Friends have done their best, and assisted us a great deal, and ought not to be censured. It is we that are to blame—we are tardy—we do not progress so fast as we wish. The difficulty does not lie with you—we have some difficulty among ourselves. What people say or do, does not influence us. We wish the question may be settled, and no difficulty hereafter. We do not think that any obstacles or delays ought to break up the treaty and compromise.”

Samuel Gordon, a chief: “About a month ago, the Friends came here with an amended treaty. They called a general council of the four reservations, and we met as we do now in this place. They read the paper, and we examined all its parts. They said we should have an opportunity to ask questions, and they would explain. It was so done. We asked a great many questions of different parts, and they explained. They continued in council six days, until they supposed every one understood it. We then came to a conclusion, and wrote that letter, which was the language of the council at that time. The remarks of Mr. Cooper, in regard to the proceedings of the last council, are true. All he has said is true; neither did he compel us to sign. The paper was read for the inspection of the chiefs, and they discussed and decided on it.

“The difficulty is among ourselves. We disagree in small matters. I will state some of those difficulties. The compromise says the Indians shall give up two of their reservations. They, on the other hand, do not wish to give them up; they cannot consent; they wish the compromise to be in this way. They would take the same number of acres that comprise the Allegany and Cattaraugus reservations, divided among all the reservations. That is the desire of the people, as well as the chiefs. They wish to stay on their own reservations. The great desire of the chiefs is to make a compromise so that the people will be satisfied. They fear, if all are concentrated on two reservations, there will be difficulties and jealousies among themselves. That is the main difficulty. They want to make such an arrangement that all difficulty hereafter shall cease. They wish now to make a compromise with the Ogden Company. Cannot they compromise so as to keep the same number of acres contained in the Cattaraugus and Allegany reservations divided among all the different reservations? They wish to satisfy the people of the Seneca nation. They want to consider and see if they can compromise so as to satisfy the people. It is not the wish of the Cattaraugus chiefs that the Friends withdraw from us; but we hope they will take hold with us, and carry through the negotiation. We have confidence in them; we believe they love us, and will do all they can for our benefit. We should exceedingly regret if our Friends should conclude to leave us. We, the Cattaraugus chiefs, beg them to remain, and not withdraw, but go on and assist in the negotiation. We hope they will have patience. It is by no means uncommon, in matters of this kind, to meet with obstacles and difficulties of various kinds. This is an important affair, and, to the Indians, of great moment. We are not far

apart; we cannot agree at once; but we believe in a little while we shall come to a united conclusion."

Jimmy Johnson, a Tonawanda chief, observed: "I would say a few words to Mr. Cooper, on behalf of the Tonawanda chiefs. I understood the paper was an invitation for a council; that it was written by Mr. Cooper. He requested the chiefs to sign it, because the Secretary of War was a great man; therefore they signed, with the understanding that when the council should meet they would have an opportunity to negotiate for a compromise."

The commissioner on the part of the United States: "Brothers! I came here under restricted power. I had not power to negotiate at large. The Secretary of War informed me that the basis or foundation of a treaty was already agreed to by you, at the advice of your friends, the Quakers, acting in your behalf with the Ogden Company; and he told me, in a letter he wrote to me, that there had been a long negotiation between you and the Ogden Company; and by his efforts in aid of your friends, the Quakers, these were the very best terms they could possibly obtain for you. And he thought he had done great things for you by the new treaty, by preventing the necessity of all the Seneca nation emigrating and leaving the State of New York. You are already informed, by the treaty of 1838, that you are, in three years, to remove and go beyond the Missouri river. This he believed would be to many of you very hard and disagreeable. He therefore interested himself in your behalf to get the very best terms from the Ogden Company, with the aid and counsel of your friends, the Quakers. Now, as a private individual, I should be glad if you could be accommodated exactly as Seneca White proposed; that is, that you might remain on your old reservations. But remember that you have made a treaty; that treaty has been proclaimed to be the supreme law of the land; and the Secretary of War believes you can never get rid of that treaty but with the full assent of the Ogden Company. You seem to think, however, from what Seneca White has said, that the Ogden Company will give you better terms. Now, Messrs. Ogden and Fellows are here as trustees of the company to whom you sold the right of the reservations, and will give you an answer for themselves here publicly, or in any way you see fit. Let me say one word farther. Many of your best friends think that instead of its being an injury to you to be concentrated on the Cattaraugus and Allegany reservations, it will be much better for you. And your friends, the Quakers, as I understand them, intend to superintend and afford succor, to educate you, and make you a much greater people than you now are. Messrs. Ogden and Fellows will answer for themselves; and if they will comply with your wishes, it will be satisfactory to me. The Quakers could get no better terms in your behalf."

Seneca White "was very happy to hear of the limited instructions of the commissioner on the part of the United States. He understood, at the close of his remarks, that the trustees of the Ogden Company were present, and would answer for themselves. It is the wish of the chiefs that they would answer the questions. We put the question to them, Will they consent to this compromise, and grant the wish of the chiefs?"

T. L. Ogden. "Brothers! I am here with my associate, Mr. Fellows, to represent what is called the Ogden Company. In speaking to the appeal which you have made to us, it may be proper for me to review briefly the history of the proposed compromise which has been offered to you. I

should commence with the fall of last year, shortly after the present Secretary of War came into office.

“I live in the city of New York; and about that time I received a letter from the Secretary of War informing me that he had received a letter from some of the Friends in Baltimore proposing such a compromise as would satisfy you, and ought to satisfy the pre-emption company. The Secretary of War requested I should proceed from New York to Baltimore, to see and converse with them. I did go to Baltimore, and had an interview with P. E. Thomas, who is now present. I asked that Friend what he had to propose. I stated that I would listen to what he had to say; that I had no right to compromise the rights of the company, but would hear any proposition he wished to make. He answered he was not authorized to speak for you; but he was your friend, and had no doubt you would approve anything he and the society should agree to with us. Mr. Thomas then made a proposition to me on your behalf, which he desired me to lay before the pre-emption company. But his proposals were, as I considered, so at variance with the rights of the company, and so exclusively in your favor, I told him it was improper for me to listen; and if these were his final propositions, the negotiation had better cease at once. He then desired me to go the next day, and he would go, and see the Secretary of War, and ascertain if we could not agree. We accordingly met at Washington, and had a long conversation with the Secretary of War, and some progress was made towards an adjustment. I asked the Secretary what the government would do? Whether it would carry out the treaty with those Indians who would emigrate? He proposed to satisfy those who wished to go west, and protect those who remained. Such propositions were therefore made between us, and discussed at large; and I returned to New York in order to learn the opinion of the company I represented. After that, a consultation took place between the Secretary, acting for the Friends, and myself, acting for the company. The Friends were very tenacious of your rights, and made many proposals, some of which the company could not and would not accede to. Letter after letter passed between us in relation to this matter, and finally an arrangement was concluded. I then went back to Washington, and had it all reduced to writing, in the form of a treaty, which is now submitted to you. The whole matter was thus concluded by the Friends, acting for you, and the pre-emption company, acting for themselves. In the whole course of the transaction the Quakers, who do not hold to fighting, have fought your battle most valiantly. They have advocated and argued your case with a pertinacity and zeal which alone has produced the result of the new treaty. The conditions of the compromise having been agreed upon, the next step was to ascertain whether you would agree to it. The Society of Friends undertook to lay the subject before you. The trustees of the pre-emption company told you that when you gave your assent to it they would agree to it. A few days since I received a letter from the Secretary informing me that a letter of assent had been signed by seventy-nine of your chiefs, and the time had now arrived for the pre-emption company to come and consummate the agreement. Mr. Fellows and myself have accordingly come for that purpose. You now inquire whether we can enter into a negotiation, and alter the terms of the contract. My answer is, we come here not to enter into a new treaty, but to consummate the one already agreed upon. Mr. Fellows and I represent a great many persons who are interested, who have authorized us to con-

clude this treaty, but have not authorized us to make a new one. You have expressed a desire to remain on the different reservations as you are now situated. It is not for me to advise you as to the wisdom of this arrangement. It would, perhaps, be more for the interest of the pre-emption company, as it would save us the expense of buying your improvements. But that would be a departure from the commission we hold. I believe it would be much to your disadvantage; and I believe, also, that the government, which wishes to concentrate you as much as possible, would never agree to it. It would afford me great pleasure to gratify your wishes on this point; but we do not feel authorized to deviate from the compromise which has been made. It is now for you to conclude whether the agreement we have come here to execute will be executed or not. We have thought that the arrangement was highly beneficial to you, inasmuch as we have, for the sake of peace, relinquished two of the reservations, and have purchased the improvements of such as may wish to go. I need not say to you, brothers, if you reject the compromise you will stand on the rights you have under the treaty of 1838. What your rights are, it is not for me to tell you: what our rights are, I think we understand. I fervently hope the Great Spirit may dispose your minds to come to a right decision in the matters now under consideration."

John Black Smith said "he understood the compromise occupied them several days, and they had found none better that could be made; that if the contract was altered, the United States would not consent to it."

T. L. Ogden replied, that "he thought the government would not consent to the desired alteration, as it was its policy to concentrate the Indians, as much as possible, in one body."

Philip E. Thomas then addressed the council as follows: "Brothers! It has been stated to you that your Friends, who are attending this council as representatives from the four yearly meetings, believing their services to be now drawing to a close, were preparing to withdraw from you; they were about to do this, but had not come to the conclusion from any abatement of friendship for you, or of solicitude for your welfare. They supposed that they had communicated to you all the information and counsel that it would be in their power to give; and being far distant from their homes, and detained much longer from their families than they had expected, they were desirous to return as soon as they could safely leave you. Perceiving, however, from what has been here expressed, that it is your wish they should remain longer with you, they have concluded to do so."

Upon the expression of these remarks, a general feeling of satisfaction appeared to be diffused over the council.

The commissioner on the part of the United States: "Brothers! We now propose to leave you, and will meet you again to-morrow, at 10 o'clock. You have heard from Mr. Ogden a full explanation of his power, and of the mode and manner in which the treaty that has been proposed to you has been brought about. You have heard that you can expect no alteration of the treaty, in compliance with a wish expressed by several of the chiefs. Therefore the question is reduced to a single point—whether you will remain by the treaty of 1838, and abide its consequences, or accept this modified and amended treaty. The Secretary, as I told you before, expected there would be no alteration in the treaty which you agreed to at the meeting in April, except in one particular; and that particular was this: you are to remain upon your reservations, and keep your improvements, for two years



instead of one. I have ventured, in one other particular, to alter the treaty—not in its spirit—with the advice and consent of your friends, the Quakers, in full belief that, if he were here, he would approve of it, viz: giving those who may wish to go west from Cattaraugus and Allegany, compensation for the improvements of their lands, the same as those who go from Buffalo and Tonawanda.”

Council adjourned.

SIXTH DAY—10 O'CLOCK, A. M.

The council met pursuant to adjournment.

N. T. Strong rose and said, that he had been instructed to say, on behalf of the emigration party, that they were ready to vote upon the question. He also gave their views, at considerable length, of the treaty of 1838, and concluded by expressing their approbation of the present arrangement.

The commissioner on the part of the United States: “Brothers! We have heard the sentiments expressed by Mr. Strong, in relation to the emigration party. They have acted honorably. They say they are still disposed to emigrate, and execute the treaty of 1838; but are willing, by way of accommodation, to sign the treaty proposed. You have had several days to consider the treaty we have had under consideration. I am now ready to hear what you have to say. I meant to give you full time for deliberation, that you should not hereafter complain that you were precipitated into this new treaty. If you are now ready, I will hear what you have to say. Those who are now ready to give an answer to the proposed treaty, yea or nay, please to rise.”

Black Smith “appealed to the commissioner from Massachusetts, and the delegate from the legislature of New York, to see that the business was done fairly; he believed the emigration party (that is, the portion of the Indians who were in favor of the treaty of 1838, whose views Mr. Strong had expressed) had no right to vote on the question.”

The commissioner on the part of Massachusetts: “I am requested to state my views upon this subject. It is contended that the emigration party have no right to vote upon the question, whether you are ready to give your final decision upon the treaty. They have the same right to vote as any other part of the council. They have the same interest on this subject that the other members of the council have.”

Black Smith: “They expressed their opinion through their orator; is it right for them to vote twice?”

The commissioner on the part of Massachusetts: “They did not vote; they only expressed an individual opinion. This is to be a vote of the whole. There is no difference as to the rights of the chiefs. All will have the right to withhold or to give their assent to the treaty.”

Black Smith: “Then the remarks made by them were not a decision?”

The commissioner on the part of Massachusetts: “By no means.”

The commissioner on the part of the United States: “I will answer the remarks of Black Smith. He objects to the emigration chiefs voting, because they have given an opinion. I came to treat, and my commission is with the chiefs and headmen of the Seneca nation. I have no authority, nor would it be right or proper for me, to say that any of the chiefs had no right to vote upon this question. As well might they object to the Tonawanda chiefs, or to Black Smith's voting, because he had expressed an opinion.”



against the treaty. It is a fundamental principle with the whites that a majority shall govern. Every chief having the right to vote, it is not in my power to unmake them chiefs, and deprive them of that right."

Black Smith replied: "That, being as old a man as the commissioner on the part of the United States, he wished to answer him. You stated that what they said was not their decision, but that they might vote after giving that opinion. I do not say they ought not to vote. The question was, after they had expressed their opinion, were they to vote again? You said, suppose the council should say Black Smith should not vote because he had expressed an opinion. I think it is very curious if I should not have a right to vote."

Before the question upon the acceptance of the treaty was finally taken, a motion was made by one of the Cattaraugus chiefs, that, in consideration of the losses and inconveniences to which those families would be subjected that might, by the provisions of the treaty, be obliged to remove from the Buffalo and Tonawanda reservations, the nation would, for four years, release to such families so removing the whole of the annuities that might accrue for the sale of the lands now to be relinquished. This proposal was approved and ratified by the vote of the council, with but one dissenting voice, and it manifests a liberality and love of justice highly honorable to the Seneca nation. The question on the treaty being executed was now taken, and decided in the affirmative: ayes 56.

The delegate from the legislature of New York: "As to the privilege of voting, I entirely agree with the commissioner from Massachusetts. What was said by Mr. Strong, in behalf of the emigration party, was only their opinion of the treaty, and not whether they were ready to decide. If any chief had said he wanted further time to deliberate, he would have had a right to vote upon the question put. This is precisely the way the whites transact business. The vote was a strong one. I hope you will be satisfied with the decision, and acquiesce in the will of the majority."

M. Cooper said: "Now, my friends, I want to say a few words to you. Withstanding there has been a majority in favor of the treaty, some think they are not obliged to sign the treaty. They say that yesterday certain questions were asked, and they have not had time to deliberate. They want till 3 o'clock to consider. This is reasonable, and the time desired should be allowed."

The commissioner on the part of the United States: "You have already voted, by a large majority, that you were ready to answer; but, not to precipitate matters, and to give you full time, we will adjourn to 3 o'clock."

3 o'clock.—The council met pursuant to adjournment.

The commissioner on the part of the United States said:

"Brothers! We have met you again according to adjournment. You have declared yourselves, at our last meeting, ready to proceed with the business which has called us together. The treaty now to be laid before you has been carefully compared with the original, which has been read to you. The commissioner from Massachusetts, the Senator from New York, your friends the Quakers, and myself, have all examined it, and found it correct. If you have confidence in us, and in your friends, I suppose it will not be necessary to read it again to you, and we shall proceed to the execution of the treaty."

The Allegany Indians expressed a wish that they should have the same

privileges extended to them as had been extended to the Cattaraugus Indians, which were that those who should emigrate should be paid for their improvements. The commissioner on the part of the United States inquired "if there was any objection on the part of the Buffalo and Tonawanda Indians to this proposition?" Only 17 votes appeared against it, and the proposal was agreed to.

Explanations were made showing that the Indians who may emigrate to the west are not to have any voice in the sale of the Cattaraugus and Allegany reservations when a sale shall be made, but that they will then receive their proper proportion of the proceeds.

The commissioner on the part of the United States: "Messrs. Ogden and Fellows have now executed a deed conveying to the Seneca nation the two reservations of Cattaraugus and Allegany. Will you now come forward and sign the treaty?"

A chief inquired "if the company would permit the people on the Tonawanda and Buffalo reservations to have fire-wood during the two years they might remain, and take away that which is already cut?" To which Ogden and Fellows replied in the affirmative.

Daniel Twoguns, one of the chiefs, asked "whether a large quantity of wood and lumber, which was already cut and sawed, might be removed?"

Ogden and Fellows: "The Indians may take away and dispose of all that is cut."

Twoguns: "I am enclosing a field of 97 acres. Will this improvement be paid for?"

Ogden and Fellows: "That is provided for in the treaty. It will be paid for."

Twoguns: "Amendments have now been made to the treaty, although the commissioner said, when the subject was first opened, that he was restricted to the treaty as it was sent here from Washington, and not five minutes afterwards he himself proposed an alteration."

The commissioner on the part of the United States: "Brothers! There has been no departure from the spirit of that treaty. The Indians, at their own request, have, by the alterations, been allowed to sell their improvements on the Cattaraugus and Allegany reservations, in order to enable them to remove, if they should wish to emigrate."

John Black Smith: "Brothers! We shall this day witness the consummation of the object of our visit. I have but to say I dissent in toto, and do not consent to the compromise. My opinion is, that it is the same in nature as the treaty of 1838. That treaty was made before it was brought into council, and the present one was also made before it was brought here.

"Brothers, the pre-emptioners: I will not say nor admit that this is a compromise treaty. Heretofore, in negotiations for the sale of our lands, it was the custom of the chiefs to say what lands they would sell: here, others say for them. This is a forced treaty. I don't know what to call it. The Tonawanda Indians have never signed any paper or deed for the sale of their lands. I did not approve of any sale, and do not now approve it. I shall not yield one inch in this matter."

The commissioner on the part of the United States: "I hope Black Smith does not impute to me any thing dishonorable or unfair. If I know the feelings of my own heart, I was prompted to undertake this service by my regard for the Indians, firmly believing that the real friends of the Indians, the Quakers, had done every thing they could to obtain, and had obtained,

the very best terms for them that they could. And as to any force, it is out of the question. No force has been used. The treaty has been submitted fairly, and ample time has been had to deliberate. In addition to myself, I can add that the commissioner from Massachusetts has been actuated by the same friendly feelings, and has been careful to explain to you the terms of the treaty. In cases like the present, it is customary, it is necessary, to prepare the papers beforehand."

A question having arisen whether the Indians could use the timber, the commissioner from Massachusetts said :

"You ought to understand that, by the present agreement, you have no right to cut wood on the land you cede. It is agreed, however, by the Ogden Company, that all the wood and timber already cut and belonging to the Indians may be taken by them. The company also concede the right to take for two years wood for fuel, fencing, and repairs of buildings; beyond this the privilege does not extend. Messrs. Ogden and Fellows also say that whatever timber belongs to the Indians on the Cattaraugus and Allegany reservations, and has been seized, shall be restored to them."

William Jones, a Seneca chief: "Some have cut saw logs for buildings; may they be taken by the Indians, for sale?"

Ogden and Fellows: "They may."

The treaty was then signed by 55 chiefs—16 refusing.

John Black Smith then rose and said, that in the commencement of the proceedings the commissioner from Massachusetts said that when all the chiefs should sign the treaty he would approve of it on the part of Massachusetts; and as the chiefs to the number of 16 had refused to sign it, he appealed to him to withhold his assent. The first part of his speech was not taken by the reporter. The conclusion was as follows:

"I wish to thank the honorable commissioner from Massachusetts, and also the honorable commissioner from the Senate of New York, for what you have done for us. We believe you are all well disposed towards the Indian nation, and have protected them since the first treaty was made with them. You are sent here by your governments to see that justice is done to the Indians, and that they are not wrongfully deprived of their lands. One word to the commissioner on the part of the United States: None of the Tonawanda chiefs have signed the new treaty. We have unanimously rejected it. From the beginning of this negotiation we have never signed any treaty. Two gentlemen who are now present can testify that they have endeavored to induce us to sign papers; but they never could. We have never received a cent from the Ogden Company. We do not expect they will take our lands away from us; we have never consented that they should. We have 15 chiefs, none of whom have ever signed, and 615 inhabitants. They love their children; they love their nation. Now, we say to you, commissioners, we have the same mind, and shall continue so hereafter. We shall consider it a great injury, if at a future day any one should forcibly take away our rights."

The commissioner on the part of Massachusetts: "In one important particular Black Smith has misstated the remarks made by me at the opening of the council. I did not say that the consent of Massachusetts would not be yielded before the unanimous agreement of the council should be given to the treaty. My remark was in substance this: That Massachusetts had sent me here neither to persuade the Indians to sell their lands, nor to dissuade them from it, but to see that the Indians were made fully acquainted

with the nature of the contract proposed to them; that the operation and construction of that instrument should be made plain to their understandings; and that when they should have fully considered the offers made to them, and all the circumstances under which they were placed, and should deliberately agree to the terms of a treaty, the consent and approbation of Massachusetts would be given to the contract. To me it seems that these conditions have been now fulfilled; the terms of the treaty before you have been fully explained, and appear to be perfectly understood by all of you. It has received the assent, freely given, of a large majority of the Seneca nation here, represented by its chiefs. I can now see no reason why the consent of Massachusetts should be withheld.

The delegate from the senate of New York: "The time is so far spent, that I can say but a few words. It gives me great pleasure, representing the State of New York, to know that you are satisfied that the people of New York are the friends of the Indians. They have ever heretofore been their friends, and will, I trust, ever continue so. I have had great satisfaction in witnessing the proceedings of the council. Every thing, as far as I can see, has been done fairly and honorably. The result has been a treaty. It has been duly executed according to law, as we understand it. We understand that you are a single nation, and every part is under the control of the whole, and that all are bound by the acts of a majority, the same as white people. We hope, therefore, the Tonawanda chiefs will acquiesce, and go on to the reservations which this treaty restores to them. And we hope and believe they will there enjoy more happiness and prosperity than they can in their present state."

Benjamin Ferris: "Brothers! It was our concern for the happiness and welfare of your people that brought us here on the present occasion. If we had not thought that your best interests would be promoted by the treaty that has been offered to your consideration, we should not have been here at this present time. But it appeared to us, that if this compromise should not be accepted, you must inevitably be driven from your present homes, into the wilderness beyond the Mississippi; that sooner or later this calamity must overtake you. Under the present arrangement, the power to remain on the lands, descended from your forefathers, will be placed in your own hands. The reservations restored to you are rich and fertile, and, with due culture, are amply sufficient for the comfortable sustenance of your families. We greatly desire your prosperity, and that you may live on them in peace and harmony together.

"Brothers! We pray that the Great Spirit may so influence and direct you in all your movements, as to secure to you the benefits to be expected from a wise decision in this case, and we desire for you the blessings of happiness in this world, and in that which is to come. And now, brothers, being about to leave you, perhaps to see you no more, we bid you an affectionate farewell."

After some appropriate remarks from the delegate from New York, in which he bore testimony to the fair and honorable manner which had characterized the present negotiation, the commissioner on the part of the United States addressed the chiefs in conclusion. He spoke at considerable length, advising them to cultivate a spirit of harmony among themselves; and in conclusion, bade them farewell, invoking the Divine blessing upon them. When he had concluded, the council adjourned *sine die*.

In concluding this narrative of the late proceedings of Friends, for re-

storing to the Seneca Indians a portion of the lands owned by them in the western parts of the State of New York, it may be interesting to the younger portion of our members to be informed of the circumstances under which this concern originated in the Society of Friends.

Very soon after the revolutionary war, the settlements of white people began rapidly to extend, and in a few years to encroach upon the Indian tribes bordering on our western frontier. Previous to this time, the Seneca nation was separated from the white population by an extensive wildefness, and hitherto they had felt but little inconvenience from them. As these settlements, however, approached the Indians, they found that the game on which they had been accustomed to depend for food was fast leaving them; and, becoming greatly distressed, under the apprehension that their means of subsistence would soon fail, they made an earnest appeal to our Society, as their ancient and steadfast friends, for assistance under the difficult circumstances which now began to press upon them.

Several of these applications are still preserved. Among them we find one from Corn Planter, a distinguished Seneca chief, dated in the year 1791, in which he says :

“Brothers! The Seneca nation see that the Great Spirit intends they should not continue to live by hunting, and they look round on every side, and inquire who it is that shall teach them what is best for them to do. Your fathers dealt honestly by our fathers. They have engaged us to remember it, and we wish our children to be taught the same principles by which our fathers were guided.

“Brothers! We have too little wisdom among us. We cannot teach our children what we perceive their situation requires them to know. We wish them to be instructed to read and write, and such other things as you teach your children—especially the love of peace.”

There is also a speech from Gayashuta, a very aged Seneca chief, addressed to Friends in the year 1790, which is deemed worthy of preservation. It exhibits not only a striking evidence of the confidence of these people in Friends, but affords a beautiful specimen of natural eloquence that has seldom been surpassed, viz :

The speech of Gayashuta, an ancient chief of the Seneca nation, on the borders of Pennsylvania, as given in charge by him to one of the sachems of that nation, in the year 1790, to be delivered to Friends of Philadelphia :

“Brothers, the sons of my beloved brother ONAS.\* When I was young and strong, our country was full of game, which the Good Spirit sent for us to live upon; the lands which belonged to us were extended far beyond where we hunted. I and the people of my nation had enough to eat, and always something to give to our friends when they entered our cabins; and we rejoiced when they received it from us. Hunting was then not tiresome; it was a diversion—it was a pleasure.

“Brothers! When your fathers asked land of my nation, we gave it to them, for we had more than enough. Gayashuta was among the first of the people to say: ‘Give land to our brother Onas, for he wants it,’ and he has always been a friend to Onas and to his children.

“Brothers! Your fathers saw Gayashuta when he was young; when he had not even thought of old age or weakness; but you are too far off to

\* ONAS is the Indian name for a *quill*, and by this name they always spoke of William Penn.



see him now he is grown old. He is very old and feeble, and he wonders at his own shadow—it has become so little. He has no children to take care of him, and the game is driven away by the white people, so that the young men must hunt all day long to find game for themselves to eat—they have nothing left for Gayashuta. And it is not Gayashuta only who is becoming old and feeble: there yet remain about thirty men of your old friends, who, unable to provide for themselves, or to help one another, are become poor, and are hungry and naked.

“Brothers! Gayashuta sends you a belt, *which he received long ago from your fathers*, and a writing, which he received but as yesterday, from one of *you*. By these you will remember him, and the old friends of your fathers in this nation. Look on this belt and this writing, and if you remember the old friends of *your fathers*, consider their former friendship and their present distress; and if the Good Spirit shall put it into your hearts to comfort them in their old age, do not disregard his counsel. We are men, and therefore need only tell you that we are old and feeble, and hungry and naked; and that we have no other friends but you, the children of our beloved brother Onas.”

The concern from about this period continued increasingly to interest the minds of many Friends. Their sympathies and commiseration for the sufferings of our red brethren became deeply excited. They called to mind the many acts of mutual kindness and friendship that had attended the early settlement of our forefathers amongst them, and they felt themselves religiously called upon to make an effort for the relief of the remnant then left of this greatly injured people, whose utter extermination seemed to be inevitable, unless some efficient means were adopted to arrest the progress of circumstances that were now rapidly tending to their destruction.

Committees, composed of some of our most intelligent and active members, were appointed to extend care to them. These committees have been regularly continued to the present time; they have been engaged in unremitting efforts to promote the moral and social improvement of the Indian race, and their labors have been followed by great and lasting benefits to these people.

When the Senecas, more than fifty years since, first found themselves in difficulty, they turned their attention to Friends, as their only resource. In their recent troubles, they again renewed their application to the Society for aid, and the result, under the Divine blessing, has been, after a long and arduous struggle, the securing to them a home and the restoration of a portion of their lands, sufficient for all their present purposes, with increased responsibilities on our part, and a firm confidence on theirs, that we “will never desert them while they continue to exist as a nation.”

The condition in which they are now about to be placed is altogether favorable for securing the benevolent objects so long desired by Friends—their elevation to the rank and enjoyment of the advantages of civilized life. Many of them, as regards their intellectual and moral condition, already occupy a position as respectable as their white neighbors. Being about to be concentrated into compact settlements, and surrounded on all sides by highly cultivated agricultural districts, they can have no sufficient resource for subsistence but the cultivation of their lands, to which many of them are now most anxious to apply themselves. Already the men here have almost universally adopted the dress or costume of the white people; and were it not for their color, they could not be distinguished from them.



They have become exceedingly desirous that their children should receive school education, and many of them are beginning to turn their attention to a division of property, and are looking forward to the time when they may be admitted to the rights and station of American citizens.

From there having been but little care extended to the Indian women, they are by no means so much improved as the men. They are still permitted to perform the labors of the field, and other drudgery, incompatible with their station as the female heads of families, and the duties that should rest upon them as the guardians and instructors of a rising generation. To this important point it is hoped the efforts and care of our women Friends will hereafter be more especially directed.

In conclusion, it may be added, that by the benevolent efforts which have been exerted to improve the condition of these people, they have been led to the very threshold of civilization. One step more, and the great object will be secured, and the question of the capacity of this race for elevation to the rank and condition of civilized life be forever settled.

A result so important to the whole Indian race cannot fail to animate their friends to renewed and increased exertions. On the issue may depend the existence not only of this remnant of a once powerful nation, but of the whole American aboriginal family. Should the fact become established, that by a judicious course of instruction the red men of our country may be reclaimed from barbarism, and become useful and good citizens, the whole policy of the government towards them may be changed, and our country saved the indelible disgrace which must inevitably follow their entire extermination.

---

*Synopsis of the supplemental treaty.*

Article 1st provides that the Ogden Company restore to the Senecas the two reservations of Cattaraugus and Allegany, with the same title to them in all things as they held them before the execution of the treaty of 1838, reserving the right to purchase the same when the Senecas may incline to sell them.

Article 2d provides that the Seneca nation agrees to relinquish to the Ogden Land Company the two reservations of Tonawanda and Buffalo.

Article 3d provides that the two reservations to be ceded shall be paid for in proportion to the relative value of the lands within all the four reservations.

Article 4th provides that this valuation shall be adjusted by arbitrators, one of whom shall be appointed by the Secretary of War, and the other by the Ogden Land Company. The umpire, or third arbitrator, to be appointed by the other two. The said valuation to be made as agreed upon in the former treaty, both as to the lands and improvements.

Article 5th provides that the forest or unimproved lands on the Tonawanda and Buffalo reservations shall be surrendered to the Ogden Land Company in one month after the award of the arbitrators shall be filed in the office of the Secretary of War, it being agreed that the amount awarded to be paid therefor shall be paid, or secured to be paid, to the Secretary of War. And it also provides that the improved lands shall be surrendered within two years from the filing the said award as aforesaid, when the value

of the improvements shall be paid to the President of the United States, to be distributed among the owners thereof.

Article 6th provides that such of the Seneca nation as may desire to emigrate from the State of New York shall be entitled, in proportion to their relative numbers, to the funds and annuities of the nation, and that should the said nation remaining in the State of New York hereafter sell these two reservations, the emigrating Indians shall, in like manner, be entitled to their share in the proceeds thereof.

Article 7th provides that the treaty of 1838 is annulled, so far as the same is inconsistent with the provisions of the present treaty.

Article 8th provides that the expenses attending the execution of this treaty shall be paid by the Ogden Land Company.

Article 9th stipulates that the parties to this treaty will solicit the influence of the United States to protect from taxes the lands of the Seneca nation while they may continue to own and occupy the same.

Emigrants from the Cattaraugus and Allegany reservations are to receive pay for their improvements when they shall choose to emigrate, out of any funds belonging to the Seneca nation in the hands of the general government; the property so improved to become the property of the nation.

---

F.

*Treaty of 1842, supplemental to treaty of 1838.*

JOHN TYLER,

PRESIDENT OF THE UNITED STATES OF AMERICA.

*To all and singular to whom these presents shall come, greeting :*

Whereas a treaty was made and concluded at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America; acting herein by Ambrose Spencer, their commissioner, thereto duly authorized on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part; which treaty is word for word as follows, to wit :

*Articles of a treaty made and concluded at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer, their commissioner, thereto duly authorized on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part.*

Whereas a treaty was heretofore concluded and made between the said United States and the chiefs, headmen, and warriors of the several tribes of New York Indians, dated the fifteenth day of January, in the year one thousand eight hundred and thirty-eight, which treaty, having been afterwards amended, was proclaimed by the President of the United States, on

the fourth of April, one thousand eight hundred and forty, to have been duly ratified :

And whereas, on the day of making this treaty, and bearing even date herewith, a certain indenture was made, executed, and concluded by and between the said Seneca nation of Indians and Thomas L. Ogden and Joseph Fellows, assignees under the State of Massachusetts, in the presence and with the approbation of a commissioner appointed by the United States, and in the presence and with the approbation of Samul Hoare, a superintendent on the part of the Commonwealth of Massachusetts, which indenture is in the words and figures following, to wit :

"This indenture, made and concluded between Thomas Ludlow Ogden, of the city of New York, and Joseph Fellows, of Geneva, in the county of Ontario, of the one part, and the chiefs and headmen of the Seneca nation of Indians on the other part, at a council duly assembled and held at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, in the presence of Samuel Hoare, the superintendent thereto authorized and appointed by and on the part of the Commonwealth of Massachusetts, and of Ambrose Spencer, a commissioner thereto duly appointed and authorized on the part of the United States :

"Whereas, at a council held at Buffalo creek, on the fifteenth day of January, in the year one thousand eight hundred and thirty-eight, an indenture of that date was made and executed by and between the parties to this agreement, whereby the chiefs and headmen of the Seneca nation of Indians, for the consideration of two hundred and two thousand dollars, did grant, bargain, release, and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows all those four several tracts of land situate within the State of New York then and yet occupied by the said nation, or the people thereof, severally described in the said indenture as the Buffalo creek reservation, containing, by estimation, forty-nine thousand nine hundred and twenty acres of land ; the Cattaraugus reservation containing, by estimation, twenty-one thousand six hundred and eighty acres of land ; the Allegany reservation containing, by estimation, thirty thousand four hundred and sixty-nine acres of land ; and the Tonnewanda reservation containing, by estimation, twelve thousand eight hundred acres of land ; a duplicate of which indenture was annexed to a treaty of the same date, made between the United States of America and the chiefs, headmen, and warriors of the several tribes of New York Indians assembled in council ; which treaty was amended and proclaimed by the President of the United States, on the fourth of April, one thousand eight hundred and forty, as having been duly ratified, as by the said indenture, treaty, and proclamation more fully appear :

"And whereas divers questions and differences having arisen between the chiefs and headmen of the Seneca nation of Indians, or some of them, and the said Thomas Ludlow Ogden and Joseph Fellows, in relation to the said indenture, and the rights of the parties thereto, and the provisions contained in the said indenture being still unexecuted, the said parties have mutually agreed to settle, compromise, and finally terminate all such questions and differences on the terms and conditions hereinafter specified :

"Now, therefore, it is hereby mutually declared and agreed, by and between the said parties, as follows :

"ARTICLE 1st. The said Thomas Ludlow Ogden and Joseph Fellows, in

consideration of the release and agreements hereinafter contained on the part of the said Seneca nation, do on their part consent, covenant, and agree that they the said nation (the said indenture notwithstanding) shall and may continue in the occupation and enjoyment of the whole of the said two several tracts of land, called the Cattaraugus reservation and the Allegany reservation, with the same right and title in all things as they had and possessed therein immediately before the date of the said indenture, saving and reserving to the said Thomas Ludlow Ogden and Joseph Fellows the right of pre-emption, and all other the right and title which they then had or held in or to the said tracts of land.

"ART. 2d. The chiefs and headmen of the Seneca nation of Indians, in consideration of the foregoing, and of the agreement next hereinafter contained, do on their part grant, release, and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows, and to their heirs and assigns, in joint tenancy, the whole of the said two tracts of land severally called the Buffalo creek reservation and the Tonnewanda reservation, and all the right and interest therein of the said nation.

"ART. 3d. It is mutually agreed between the parties hereto, that in lieu of the sum expressed in the said indenture as the consideration of the sale and release of the said four tracts of land, there shall be paid to the said nation a just consideration sum for the release of the two tracts hereby confirmed to the said Ogden and Fellows, to be estimated and ascertained as follows:

"The present value of the Indian title to the whole of the said four tracts of land, including the improvements thereon, shall, for all the purposes of this present compact, be deemed and taken to be two hundred and two thousand dollars, of which sum one hundred thousand dollars shall be deemed to be the value of such title in and to all the lands within the said four tracts, exclusive of the improvements thereon, and one hundred and two thousand dollars to be the value of all the improvements within the said four tracts; and of the said sum of one hundred thousand dollars the said Ogden and Fellows shall pay to the Seneca nation such proportion as the value of all the lands within the said two tracts, called the Buffalo creek and Tonnewanda reservations, shall bear to the value of all the lands within all the said four tracts; and of the said sum of one hundred and two thousand dollars the said Ogden and Fellows shall pay such proportion as the value of the improvements on the same two tracts shall bear to the value of the improvements on all the said four tracts.

"ART. 4th. The amount of the consideration moneys to be paid in pursuance of the last preceding article shall be determined by the judgment and award of arbitrators, one of whom shall be named by the Secretary of the War Department of the United States, and one by the said Ogden and Fellows; which arbitrators, in order to such judgment and award, and to the performance of the other duties hereby imposed on them, may employ suitable surveyors to explore, examine, and report on the value of the said lands and improvements; and also to ascertain the contents of each of the said four tracts, which contents shall govern the arbitrators as to quantity in determining the amount of the said consideration money.

"The same arbitrators shall also award and determine the amount to be paid to each individual Indian out of the sum which, on the principles above stated, they shall ascertain and award to be the proportionate value of the improvements on the said two tracts called the Buffalo creek reservation

and the Tonnewanda reservation ; and in case the said arbitrators shall disagree as to any of the matters hereby submitted to them, they may choose an umpire, whose decision thereon shall be final and conclusive ; add the said arbitrators shall make a report in writing of their proceedings, in duplicate, such reports to be acknowledged or proved according to the laws of the State of New York, in order to their being recorded ; one of such reports to be filed in the office of the Secretary of the Department of War, and the other thereof to be delivered to the said Thomas L. Ogden and Joseph Fellows.

"ART. 5th. It is agreed that the possession of the two parts hereby confirmed to the said Ogden and Fellows shall be surrendered and delivered up to them, as follows, viz : The forest or unimproved lands on the said tracts within one month after the report of the said arbitrators shall be filed in the office of the Department of War, and the improved lands within two years after the said report shall have been so filed : Provided, always, that the amount to be so ascertained and awarded, as the proportionate value of the said improvements, shall, on the surrender thereof, be paid to the President of the United States, to be distributed among the owners of the said improvements, according to the determination and award of the said arbitrators, in this behalf ; and provided, further, that the consideration for the release and conveyance of the said lands shall, at the time of the surrender thereof, be paid or secured to the satisfaction of the said Secretary of the War Department, the income of which is to be paid to the said Seneca Indians annually.

"But any Indian having improvements may surrender the same, and the land occupied by him and his family, at any time prior to the expiration of the said two years, upon the amount awarded to him for such improvements being paid to the President of the United States, or any agent designated by him for that purpose by the said Ogden and Fellows ; which amount shall be paid over to the Indian entitled to the same, under the directions of the War Department.

"ART. 6th. It is hereby agreed and declared to be the understanding and intent of the parties hereto, that such of the said Seneca nation as shall remove from the State of New York under the provisions of any treaty made, or to be made, between the United States and the said Indians, shall be entitled, in proportion to their relative numbers, to the funds of the Seneca nation, and that the interest and income of such their share and proportion of the said funds, including the consideration money to be paid to the said nation in pursuance of this indenture, and of all annuities belonging to the said nation, shall be paid to the said Indians so removing at their new homes ; and whenever the said tracts called the Allegany and the Cattaraugus reservations, or any part thereof, shall be sold and conveyed by the Indians remaining in the State of New York, the Indians so removing shall be entitled to share in the proceeds of said sales in the like proportion. And it is further agreed and declared, that such Indians owning improvements in the Cattaraugus and Allegany tracts as may so remove from the State of New York shall be entitled, on such removal, and on surrendering their improvements to the Seneca nation, for the benefit of the nation, to receive the like compensations for the same, according to their relative values, as in the third and fourth articles of this treaty are stipulated to be paid to the owners of improvements in the Buffalo creek and Tonnewanda tracts, on surrendering their improvements ; which compensations may be ad-



vanced by the President of the United States, out of any funds in the hands of the government of the United States belonging to the Seneca nation; and the value of these improvements shall be ascertained and reported by the arbitrators to be appointed in pursuance of the fourth article.

“ART. 7th. This indenture is to be deemed to be in lieu of, and as a substitute for the above recited indenture made and dated the fifteenth day of January, one thousand eight hundred and thirty-eight, so far as the provisions of the two instruments may be inconsistent or contradictory; and the said indenture, so far as the same may be inconsistent with the provision of this compact, is to be regarded, and is hereby declared to be rescinded and released.

“ART. 8th. All the expenses attending the execution of this indenture and compact, including those of the arbitration and surveys hereinbefore referred to, and also those of holding the treaty now in negotiation between the United States and the said Seneca nation, except so far as may be provided for by the United States, shall be advanced and paid by the said Ogden and Fellows.

“ART. 9th. The parties to this compact mutually agree to solicit the influence of the government of the United States to protect such of the lands of the Seneca Indians, within the State of New York, as may from time to time remain in their possession, from all taxes, and assessments for roads, highways, or any other purpose, until such lands shall be sold and conveyed by the said Indians, and the possession thereof shall have been relinquished by them.

“In witness whereof, the parties to these presents have hereunto, and to three other instruments of the same tenor and date—one to remain with the United States, one to remain with the State of Massachusetts, one to remain with the Seneca nation of Indians, and one to remain with the said Thomas Ludlow Ogden and Joseph Fellows—interchangably set their hands and seals the day and year first above written.”

Therefore, taking into consideration the premises, it is agreed and stipulated by and between the United States of America and the Seneca nation of Indians as follows, to wit:

First. The United States of America consent to the several articles and stipulations contained in the last recited indenture between the said nation and the said Thomas Ludlow Ogden and Joseph Fellows, above set forth.

Second. The United States further consent and agree that any number of the said nation who shall remove from the State of New York, under the provisions of the above-mentioned treaty, proclaimed as aforesaid, on the fourth day of April, one thousand eight hundred and forty, shall be entitled, in proportion to their relative numbers, to all the benefits of the said treaty.

Third. The United States of America further consent and agree that the tenth article of said treaty, proclaimed as aforesaid, on the fourth day of April, one thousand eight hundred and forty, be deemed and considered as modified, in conformity with the provisions of the indenture hereinabove set forth, so far as that the United States will receive and pay the sum stipulated to be paid as the consideration money of the improvements therein specified, and will receive, hold, and apply the sum to be paid, or the securities to be given for the lands therein mentioned, as provided for in such indenture.

In testimony whereof, the undersigned, Ambrose Spencer, commissioner on the part of the United States of America, and the undersigned chiefs and



headmen of the Seneca nation of Indians, have to two parts of this treaty—one thereof to remain with the United States, and the other thereof with the Seneca nation of Indians—set their hands and affixed their seals the day and year first above mentioned.

AMBROSE SPENCER. [L. S.]

Tit ho-yah, or William Jones,	his x mark	[L. S.]
Saul Lagure,		[L. S.]
Gau-geh gruh-doh, or George Jamison,	his x mark	[L. S.]
N. T. Strong,		[L. S.]
Hau-keh-hoys-soh, or Blue Eyes,	his x mark	[L. S.]
Jabez Stevenson,		[L. S.]
William Krouse.		
Samuel Wilson, or Ni-ge-jos-a,	his x mark	[L. S.]
William Krouse,		[L. S.]
John Seneca, or Jo-on-da-goh,	his x mark	[L. S.]
Ho-no-yea-os, or Jacob Bennett,	his x mark	[L. S.]
George Turkey,		[L. S.]
Daniel Fau Guns,		[L. S.]
Goat-hau-oh, or Billy Shanks	his x mark	[L. S.]
Daniel Fau Guns,		[L. S.]
Goat-hau-oh, or Billy Shanks,	his x mark	[L. S.]
James Pierce,	his x mark	[L. S.]
Gi-eut-twa geh, or Robert Watt,	his x mark	[L. S.]
Thompson S. Harris		[L. S.]
Sah-go-en-toh, or Morris Halftown,	his x mark	[L. S.]
Ten-wan-ne-us, or Governor Black Snake,	his x mark	[L. S.]
Doa-ne-pho-gah, or Little Johnson,	his x mark	[L. S.]
Joh-nesh-ha-dih, or James Stevenson,	his x mark	[L. S.]
Ho-wah-tan-eh-goh, or John Pierce,	his x mark	[L. S.]
Da-gon-on de, or William Patterson,	his x mark	[L. S.]
Samuel Goudon,		[L. S.]
Tunis Halftown,		[L. S.]
Hau-sa-nea-nes, or White Seneca,	his x mark	[L. S.]
Gah-nang-ga-eot, or Young Chief,	his x mark	[L. S.]
Thomas Jameson,		[L. S.]
Moses Stevenson,		[L. S.]
Jonah Armstrong,	his x mark	[L. S.]
Joseph Silverheels,		[L. S.]
■-o-as-sah-au, or Jo. Hunlock,		[L. S.]
George Fox,		[L. S.]
Yaw-sau-ge, or Peter Johnson,	his x mark	[L. S.]
Noh-sok-dah, or Jim Jonas,	his x mark	[L. S.]
Dih-no-se-du, or Jacob Shongo,	his x mark	[L. S.]
Seneca White,		[L. S.]
Gosh-u-aw, or James Shongo,	his x mark	[L. S.]
Jarvis Spraing,		[L. S.]
Ti-at-tah-co, or Adam Doxtader,	his x mark	[L. S.]
Maris B. Pierce,		[L. S.]
So gooh quas, or John Tallchief,	his x mark	[L. S.]
Isaac Halftown,	his x mark	[L. S.]
David Snow,	his x mark	[L. S.]

John Bark,	his x mark	[L. s.]
George Killbuck,	his x mark	[L. s.]
George Dennis,	his x mark	[L. s.]
John Kennedy, sr.,	his x mark	[L. s.]
Abram John,	his x mark	[L. s.]
Job Pierce,	his x mark	[L. s.]
Saw-da-ne, or George Deer,	his x mark	[L. s.]
Ga-na-waw, or John Cook,	his x mark	[L. s.]
Jaw-ne-es, or John Dickey,	his x mark	[L. s.]
George Big Deer,	his x mark	[L. s.]
Nah-joh-gau eh, or Tall Peter,	his x mark	[L. s.]
John Kennedy, jr.,	his x mark	[L. s.]

Signed, sealed, and delivered in the presence of—  
[the words "and Allegany," in the sixth page,  
being interlined]—

A. Dixon, *Commissioner on the part of New York.*  
Benj. Ferris.  
Orlando Allen.  
Asher Wright.  
O. H. Marshall.  
Elam R. Jewett.  
Cortlandt B. Stebbins.  
Joseph S. Wasson.

Approved, August 25, 1842.

JOHN TYLER.

Now, therefore, be it known that I, JOHN TYLER, President of the United States of America, having seen and considered said treaty, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the twenty-fourth of August, one thousand eight hundred and forty-two, accept, ratify, and confirm the same, and every article and clause thereof.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington the twenty-sixth day of August, in [L. s.] the year of our Lord one thousand eight hundred and forty-two, and of the independence of the United States the sixty-seventh.

JOHN TYLER.

By the President :

DANIEL WEBSTER, *Secretary of State.*

G.

TONAWANDA RESERVATION, *March 30, 1844.*

To the Hon. JOHN TYLER, *President of the United States :*

BROTHER: We communicate a few words to your excellency concerning the illegal course pursued by the Ogdén Company to obtain possession of our lands. The appraisers of the Indian lands have, without informing us, and obtaining our consent, valued our improvements while they were seat-

ed in Buffalo, and filled out a report to the general government. When the report has been received by the President of the United States, we want and we demand that it be rejected. And when the Ogden Company shall feel disposed to pay money into the hands of the government for our lands, we strictly charge the government and the President not to receive it. The Ogden Company has often, since 1838, deceived both the general government and the Indians, and now we say let no more deception be used. The department have said that the United States had no legal power to enforce the treaty, and have accordingly sent the matter of difficulty to be adjusted in the judicial courts of the State of New York. We are determined never to sell our share of the Seneca lands, which consist of fifty acres to an individual. We believe that the treaty of peace made between the Six Nations of Indians and the United States is yet good. In that treaty peace and friendship are permanently established, and it provides to each of the Indians severally the entire control of their share of the Indian lands, and the free enjoyment of their rights and privileges. We are determined to keep the faith of that treaty. We shall also inform the governor of Massachusetts of the fraudulent course taken by the Ogden Company to secure to themselves the entire possession of our lands.

Brother, we desire that the Great Spirit might shine upon you in your deliberations to do justice to a helpless people. We rely upon the justice of a Supreme God, and upon the integrity and faith of the United States for justice and the proper protection of our people.

We are your obedient servants,

Jemmy Johnson,	his x mark.
John Blacksmith,	his x mark.
Blue Sky,	his x mark.
John Sky,	his x mark.
Win Washington,	his x mark.
Samuel Parker,	his x mark.
Jessy Tiffany,	his x mark.
Lewis Poodry,	his x mark.
Jesse Spring,	his x mark.
Daniel Spring,	his x mark.
John Bigfire,	his x mark.
Isaac Shanks,	his x mark.
Lewis Kennedy,	his x mark.

Attest: ELY S. PARKER.

---

H.

TONAWANDA, April 21, 1844.

We, the undersigned, Seneca chiefs residing on the Tonawanda reservation, under a sense of duty to ourselves and nation, do once more communicate *our feelings and determination* to our great father, the President, relative to our difficulty with the Ogden Company, as it regards *our land*, and the course still persisted in by them to unjustly and unlawfully wrest them from us. We are informed that they have or are about to pay the government the money for our improvements, which have never been surveyed or valued, although the appraisers came to Tonawanda for that purpose, but were forbid to prosecute their design by the unanimous voice of the chiefs

of said reservation, and immediately left without surveying or appraising any of our lands.

*We would request the government not to receive any money from the Ogden Company for our improvements or land, in any way, as we are still determined to remain on the small reservation left us ; and shall not receive the money from the general government, if paid them by said company.*

We feel very thankful to the Great Spirit for the preservation of our lives, and the numerous blessings he is bestowing on us ; and also to our father, the President, for his kindness in listening to our cries in this time of trouble ; and we trust he is willing to do all in his power to relieve us.

We are about to send a delegation to Washington very soon, and request that nothing further be done relative to our affairs till they arrive.

John Blacksmith, <i>head chief,</i>	his x mark.
Jimmy Johnson,	his x mark.
Blue Sky,	his x mark.
John Sky,	his x mark.
William Bigfire,	his x mark.
Jesse Spring,	his x mark.
Daniel Spring,	his x mark.
Samuel Parker,	his x mark.
Lewis Poudry,	his x mark.
Lewis Kennedy,	his x mark.
Wing Washington,	his x mark.
Jesse Tiffany.	his x mark.

● J. A. SANDFORD, *Interpreter.*

His Excellency JOHN TYLER,  
*President of the United States.*

---

I.

BATAVIA, *August 20, 1844.*

BROTHER : You are well aware of the troubles, difficulties, and perplexities with which we have been beset by the Ogden Company, who have long been endeavoring to get possession of the few acres of land that have been guarantied to us by our great father, the President of the United States, and his council.

You know that against these encroachments we *have steadily and perseveringly entered our solemn protest*, but it has been the protest of the weak against the strong ; and this company have at last (under the *color* of a treaty, to whose provisions we never have assented) sought to take actual possession of our lands.

On the 19th and 20th instant, they have offered our lands for sale in the village of Batavia. We attended on both of those days, and *publicly protested against the right of the company to our lands, and warned the people present against purchasing them.* But notwithstanding all this, they still persevere in their attempt, and some of the lands have been sold.

For fear that we should be *misrepresented* to you, and that you should be told that we had acquiesced in the sale, we inform you that this is not the fact. We have been deputed by the men and chiefs of our nation to take the course

we have; and we are desirous of informing you of the fact: hope you will stand by us in these our difficulties.

Your brothers,

JOHN BLACKSMITH, his x mark.

JAMES JOHNSON, his x mark.

J. A. SANFORD, (a Seneca Indian,) *Interpreter.*

Hon. WILLIAM WILKINS,  
*Secretary of War.*

J.

*An estimate of the number of acres of improved land to be owned, occupied, and cultivated by the Senecas of the Cattaraugus, Tonawanda, and Buffalo bands, if condensed on the Cattaraugus reservation, showing it to be entirely inadequate for their support.*

Total population of the three bands, 1,980 souls;

Number of acres of wild land, 21,767;

Giving to each soul eleven acres, or thereabouts—entirely inadequate for their support.

The number of acres of cleared land is 2,123, which would be but a little over an *acre and a half* to each; an allotment that would not be sufficient to support *comfortably* more than a *tenth* of the population that will be crowded on that reservation, upon a fair estimate.

Present allotment is 50 acres to each, on their own reservation.

L.

MEMORIAL OF TONAWANDAS.

*To his Excellency the President and to the honorable the Senate of the United States:*

The petition of the Seneca Indians, residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That we did unanimously oppose the treaty of January 15, 1838, and prevented its adoption in open council. That we did, also, unanimously oppose the treaty of May 20, 1842, and to the last. From the beginning to the end of these movements to take away our lands, we have unitedly and unanimously resisted.

We therefore believe that these treaties should not be executed upon us, if the principles of justice are to be followed. We believe there is no moral obligation upon us to adhere to them; and for denying their force, and resisting their execution, we set forth the following reasons:

1st. The Senate and President of the United States assumed to treat with the Seneca nation as an independent people, having power to form a treaty, and bind themselves thereby; and then, by the resolution of June

11, 1838, took away our *independence* by prescribing the manner in which our assent should be given—namely, by the signatures of a majority of our chiefs in open council; when, in fact, by our national laws it was, and still is, necessary that *all* of the chiefs should be of one mind; that they must *unanimously* agree to make a treaty—otherwise it cannot be made. In this fundamental law of the Iroquois, and of our nation, we at Tonawanda would have found protection. If the United States treat with us according to the laws recognised among nations, and upon the principles of justice, here is a valid objection to the execution of these treaties, and a sufficient reason why they should be unmade. We never before were required, in our treaties with the United States, to depart from our national forms of assenting to treaties which were to bind us.

2d. If it is insisted by the United States government (which has all the power to carry them into execution) that these treaties are valid notwithstanding this objection, we present, as another reason why these treaties should be broken up, that no equivalent is to be given to us for our lands. The peaceful possession of these lands has been guaranteed to us by the United States government. The *ownership and the title* were in us. The Ogden Company, to whom the government right to purchase has been transferred, has a mere naked right to purchase when we are ready to sell, and nothing more. They cannot compel us to sell. Now, we believe that, by the principles of justice and equity recognised among white people, we are entitled to the full value of our lands. We believe, further, that this reservation, if put in market, would bring \$14 per acre on an average, including improvements, while these treaties pay us for the land and improvements about \$2 50 per acre on an average. By these treaties, then, we are about to be despoiled of property which was undeniably ours, at the rate of \$11 50 per acre, even if we had been willing to sell it at its market value. In a word, over eleven-fourteenths of all we possess has been taken from us by these treaties, and given to the Ogden Company. The same estimate will hold with reference to the Buffalo reservation. How unholy this speculation! These facts alone must show that treaties so obviously unjust were never made by our nation willingly and fairly; and lead to the inference that our lands have been wrested from us so pointedly as to demand of the government of the United States, from a sense of justice to itself, that the circumstances under which these treaties were obtained should be re-examined, and, if found as represented in this petition, that the treaties themselves should be unmade by the parties thereto.

3d. In the third place, as further reasons why the United States should break up these treaties, at least so far as we at Tonawanda are concerned, we urge the following: If we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of 450 Senecas from the Buffalo reserve; so much so, that 250 still remain at Buffalo from necessity. The Cattaraugus reservation is small, and much of the land is hilly, and not capable of sustaining any families; and we believe that those already there can scarcely live. The Allegany reserve has also about as many as it can contain and support, and has more poor and hilly land in proportion than the Cattaraugus. It is absolutely impossible that we on this reservation, 500 in number, could live upon the Allegany with those already there. Starvation and misery would be the inevitable result. We cannot go there, and do not intend to, at all hazards. The truth and force of these facts will be realized when it is remembered



that our two best reserves, the Tonawanda and Buffalo, are to be taken from us; and if we are all collected upon the remaining two, the number of people will thus be more than doubled at once. It is horrible to believe that the United States government will bring famine and death upon us by executing these treaties. We cannot believe it. It may be said we ought to emigrate to the western wilderness. We answer, that there are less than one hundred at this time, and never have been more than 150, out of 2,500 Senecas, willing to emigrate. We cling to the land of our birth. We are linked together by the ties of brotherhood and consanguinity; and we must share a common destiny. We prefer to progress, as we do now, towards the customs of the whites, rather than to go into the wilderness again, and fall back to our natural or the hunter state.

4th. It is not necessary for us to detail the circumstances by which the treaty of 1838 was carried through. The fact that a majority of the chiefs of our nation did not sign the treaty in "open council," as the resolution of the Senate of June 11, 1838, directed; that some of those who did sign were bribed by money and promises of land; that others were made drunk; that others were made chiefs illegally, for the express purpose of signing, are well known and now admitted. And further, as to the treaty of 1842, although a majority was then obtained, (without the votes of any of the chiefs on this reservation, who all refused either to vote or to sign,) yet the compromise was made by the Senecas under a mistaken knowledge of their rights. The only question settled by that treaty was, whether they would unconditionally [sign, or] whether they would lose all their reservations, or save two of them. It was a mere sacrifice of two, to save two, believing that the four were otherwise lost. The fact that a majority signed under such circumstances, gives no moral force to the treaty.

5th. It may be said that under these treaties the rights of the Ogden Land Company have attached; and, if the United States and the Senecas should abrogate these treaties by a new council, the company could recover damages of the government. We answer, that we are not to blame. We did not ask the United States to make a treaty with us. We did not ask the Ogden Company to buy our lands. The first treaty was absolutely thrust upon us, and the last extorted from us, when it was well known that twenty-three hundred and fifty out of twenty-five hundred Senecas were decidedly and unequivocally unwilling to sell any lands.

6th. We may be told that we must look for redress to the courts of New York, or the courts of the United States, and that they will do us justice if we are entitled to any. We answer, that we are also informed that the legal tribunals cannot look behind or below the outward face of treaties which have been ratified, and inquire into the manner or means whereby they were obtained. The courts of law, therefore, cannot reach the evil or do us justice. If we look away from the President and Senate, our rights, our lands, and our hopes are gone. The United States government, which authorized a commissioner to make these treaties, can authorize another commissioner to unmake them, and we on our part, as a nation, will most gladly assent.

Your petitioners, in view of all the circumstances, most humbly and earnestly pray that before April, 1846, the Senate of the United States will pass a resolution recommending to the President that the case of the Seneca Indians demands a new and full investigation; and if the facts are found to be as represented in relation to these treaties, that the commissioner who

investigates the facts shall then be authorized to make a new treaty, which shall abrogate all past treaties, and restore the Seneca nation once more to its rights, place each reservation for the future under the control of its separate chiefs, and thus give, in effect, to the Seneca nation that redress which justice, equity, and humanity demand.

And your petitioners, as in duty bound, will ever pray, &c.

*Chiefs.*

		Number in family.
John Blacksmith,	his x mark	6
James Johnson,	his x mark	2
Blue Sky,	his x mark	19
Jesse Tiffany,	his x mark	3
Lewis Poody,	his x mark	9
Samuel Parker,	his x mark	
Win Washington,	his x mark	2
John Shry,	his x mark	7
George Babcock,	his x mark	
Richard Cooper,	his x mark	
Benjamin Jones,		
Tall Peter,	his x mark	
Isaac Shank,	his x mark	7
John Bigfire,	his x mark	3
Daniel Spring,	his x mark	5

*Warriors.*

John Possum,	his x mark	12
Hau-nase-haa,	his x mark	6
Daniel Shry,	his x mark	7
John Moses,	his x mark	4
Samuel Parker,	his x mark	4
Jackson Ground,	his x mark	
John Brann,	his x mark	14
John Shanks,	his x mark	8
Daniel Bigfire,	his x mark	4
William Taylor,	his x mark	6
William Snyder, sr.,	his x mark	12
Squire Brooks	his x mark	5
W. Snyder, jr.	his x mark	6
John Cooper,	his x mark	4
John Jack,	his x mark	4
Joseph Taylor,	his x mark	5
Gar-go-oh,	his x mark	6
John Infant,	his x mark	5
William Clute,	his x mark	5
Isaac Doctor,	his x mark	9
James Shongo,	his x mark	6
Hiram Clute,	his x mark	7
John Blackchief,	his x mark	6
Monroe Jonas,	his x mark	7
Johnny John,	his x mark	10

		Number in family.
Billy Stewart,	his x mark	7
David Printup,	his x mark	7
John Lone,	his x mark	7
David Roodey,	his x mark	
Daniel Peter,	his x mark	14
George Cooper,	his x mark	6
John Hill,	his x mark	6
George Elkintor,	his x mark	15
John Peterson,	his x mark	
John Jones,	his x mark	5
Oak-ta-go,	his x mark	6
Har-ar-sars,	his x mark	7
John Miller,	his x mark	9
William Parker,	his x mark	12
Ja-ga-sa-gass-ta,	his x mark	10
John Bigbay,	his x mark	9
Henry Moses,	his x mark	10
James Gar-nos-crog,	his x mark	7
James Joshua,	his x mark	3
William Hatch,	his x mark	6
Isaac Duxtater,	his x mark	7
William Bigfire,	his x mark	5
Isaac Johnson,	his x mark	7
John Brookes,		2
John Shepard,	his x mark	5
James Tommy,	his x mark	
Ephraim Thomas,	his x mark	4
Levi Parker, esq.,		
John P. Poodyry,		2
Henry Parker,		
George Moses,	his x mark	6
William Jimmy,		5

I hereby certify that all persons who signed this paper are men of the Seneca nation, and they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

M.

*Mass meeting for the Indians.*

A large convention of the citizens of Genesee county assembled at the court-house in Batavia on the 21st day of March, 1846, at 11 o'clock, a. m., to take into consideration the situation of the Tonawanda Indians residing in said county.

Mr. Samuel Richmond called the convention to order, and read the rec-

ommendation of the grand jury of said county, and other citizens, for such convention, which was as follows :

At a court of oyer and terminer and general jail delivery, held in and for the county of Genesee, at the court house in Batavia, on the fourth Tuesday of February, A. D. 1846, the attention of the undersigned members of the grand jury, organized at said court, has been called to the condition of the Tonawanda Indians, a clan of the Seneca nation of Indians, occupying and residing on the Tonawanda reserve, in the county of Genesee.

Their inquiries have led them to the knowledge of facts showing that these Indians are continually molested by the intrusion of whites upon their lands, who claim them by purchase from, and contracts with, the Ogden Company. The undersigned deeply sympathise with these descendants of a once powerful race in the misfortunes to which they are subjected by the terms of the treaty under which the Ogden Company claim title to these Indian lands.

The grand jury, as such, can take no immediate action to redress and repair these misfortunes, but they unanimously recommend to the people of the county of Genesee a general convention, at some early day, to take into consideration the unhappy condition of the Tonawanda Indians, and to devise, if practicable, some effectual means for their relief.

J. E. TOMPKINS,  
 JAMES LATHROP,  
 NELSON PARKER;  
 A. H. GREEN,  
 JAMES B. TODD,  
 L. MIX,  
 SHERROD PARKER,  
 JEFFRY ROBE,  
 HIRAM TUTTLE,  
 SAMUEL HUNN,  
 JAMES G. TIFFANY,  
 R. S. KINNE,  
 R. N. CLEMENT,  
 LUTHER CROSBY,  
 IRA E. PHILIPS,  
 GEORGE MARCH,  
 E. S. HUDSON,  
 E. PRINGLE,  
 JOHN TONE,  
 GUY B. SHEPARD.

In accordance with the foregoing recommendation, the undersigned, citizens of the county of Genesee, have called a mass meeting of their fellow-citizens, to be held at the court-house in Batavia on the 21st day of March, A. D. 1846, at 10 o'clock in the forenoon of that day.

A great public wrong is about to be consummated before our eyes, by the removal of the Tonawanda Indians from their lands. Men, women, and children, who have done us no injury—who are guilty of no violation of law—no disturbance of the public peace—who have conducted themselves in a manner at once orderly and unobusive—are to be torn from their homes, without the consent of a single individual among them, and to be driven away from an inheritance which has been guaranteed to them by

treaties, and to which they are attached by every consideration which can endear to men the place where they were born and have lived.

We know that the public feeling of the people of this county is greatly shocked at the threatened perpetration of this wrong, and we invite you to assemble *en masse*, that this feeling may obtain concentrated expression and force. There are means by which this public calamity may be averted, consistently with the interests of all who claim these lands, and we propose that those means shall be submitted to you for your consideration at the convention to assemble on the 21st of March.

SAMUEL WILLETT,  
ANDREW H. GREEN,  
FREDER'K FOLLETT,  
E. J. PETTIBONE,  
J. R. JACKMAN,  
SAMUEL RICHMOND,  
AMOS TYRELL, JR.,  
TRUMBULL CARY,  
JOHN SPRAGUE,  
BENJAMIN THROOP.

On motion of Mr. Richmond, Samuel Willett, esq., was chosen president of the convention, and Isaac T. Gifford, James R. Jackman, and Trumbull Cary were chosen vice presidents.

On motion of M. Taggart, esq., Benajah Benedict, and, on subsequent motion, Samuel J. Todd, were chosen secretaries of the convention.

The convention being thus organized, Frederick Follett, esq., moved the appointment of a committee of five, to prepare and report to the convention resolutions for their adoption. The motion was carried, and the president appointed as such committee Frederick Follett, Isaac A. Verplanck, Samuel Richmond, Leverett Seward, and Seth Wakeman.

J. H. Martindale, esq., then moved the appointment of a committee of three to prepare and report to the convention a memorial for their consideration.

The motion was carried, and the president appointed as such committee John H. Martindale, Daniel H. Chandler, and Levi E. Rugg.

And thereupon the convention adjourned, to meet again at 1 o'clock, p. m.

At 1 o'clock the convention assembled, pursuant to adjournment; and having been called to order, Mr. Martindale, from the committee to prepare a memorial, made the following report :

A convention of a large number of the people of the county of Genesee, in the State of New York, assembled, on the recommendation of the grand jury recently organized in said county, to consider the condition of the Tonawanda Indians in said county, and to devise, if practicable, some effectual measures for their relief, respectfully represent to the Senate of the United States and to the legislature of the State of New York:—

That the Tonawanda Indians are a clan of the Seneca nation of Indians, residing on a reserve of twelve thousand and eight hundred acres, situated in the counties of Genesee and Erie, but mainly in the county of Genesee. There are three other reservations in the State of New York, occupied by clans of the Seneca nation : one of about fifty-three thousand acres, called the Buffalo reservation, lying on the Buffalo creek, near the city of Buffalo ;

another containing about twenty-two thousand acres, called the Cattaraugus reservation, lying in the counties of Erie, Chautauque, and Cattaraugus on Cattaraugus creek, near the eastern extremity of lake Erie; and the third, containing about thirty-one thousand acres, called the Allegany reservation, and lying on the Allegany river, in the counties of Allegany and Cattaraugus.

All these reservations form a part of an extensive territory, which, previous to the year 1787, was claimed by the State of Massachusetts. In that year a treaty ensued between that State and the State of New York, by which the sovereignty of the disputed territory was conceded to New York, and the pre-emptive right to the soil occupied by the Indians was conceded to Massachusetts and her grantees.

By this pre-emptive right is meant the exclusive right to purchase the lands of the Indians.

In 1837 the Ogden Company (so called) were the grantees of this pre-emptive right to the four reservations occupied, as already stated, by claim of the Seneca nation of Indians.

In that year a commissioner was appointed by the government of the United States, ostensibly to treat with these Indians for the reconveyance by them of five hundred thousand acres of land in the Territory of Wisconsin to the United States, and which land, although not claimed by these Indians, nor in fact ever possessed or acquired by them, had nevertheless been offered to them by the government in the year 1832, on condition that they would remove there and occupy it. This they had not done, and refused to do. The ostensible object of this commission was to acquire these Wisconsin lands. The real purpose of the Ogden Land Company, through whose agency and solicitation the treaty had been projected, was to secure the removal of the New York Indians at the expense of the United States, and thus to obtain for themselves a clear title to the reservations which, on the consummation of this project, would be left vacant.

In 1838, in furtherance of the design just stated, the United States commissioner and the agents of the Ogden Land Company proceeded to the accomplishment of their purpose; and they procured, first, a conveyance to the Ogden Company of the four reservations already described, for the consideration of two hundred and two thousand dollars, which purports to have been signed by forty-two of the chiefs of the Seneca nation; and, second, a treaty by which the Indians ceded to the United States the five hundred thousand acres of land in Wisconsin; and the United States agreed to secure to the New York Indians one million eight hundred thousand acres of land immediately west of Missouri, and to pay to them the sum of four hundred thousand dollars—on the condition, however, that the Indians should remove to and settle on such lands within five years thereafter, or within such other time as the President might from time to time appoint.

By the customs and usages of the Seneca nation of Indians, their lands can only be alienated by the consent of a *majority of their chiefs in council*; the chiefs having first received authority from the nation to treat on the subject of alienation at all. By treaty with the United States, made in 1794, as well as by the most obvious dictates of justice and propriety, they can only be deprived of their lands with their own *voluntary consent*.

Neither the deed to the Ogden Company nor the treaty with the commis-



sioner of the United States received the sanction of a majority of the chiefs in council. On the contrary, only sixteen out of eighty-one chiefs ever gave such assent.

The assent and signatures of the remaining chiefs were procured by large bribes to many of them individually, secured in eight known instances with instruments signed by the authorized agents of the Ogden Land Company, and in which the agents contracted, besides other valuable considerations, to pay to eight chiefs alone, for their assent to the treaty and the promise of their influence and efforts to induce other chiefs to assent in like manner, the sum of *twenty-one thousand six hundred dollars* in cash.

These promises and agreements were made, and a portion of the bribery money paid, and the signatures obtained, after urgent solicitations, by the hired agents of the company, in rooms in the city of Buffalo, where the chiefs had been separately inveigled, remote from the tribes, out of council, and for such reasons, when they had no authority to do any act having official sanction, or in the slightest degree obligatory upon the tribes.

And when these means failed of gaining for the company the requisite majority, new chiefs were elected by a small fraction of the tribe, contrary to their customs and usages, for the very purpose of securing the required number.

The Indians allege that, in addition to such means, chiefs were made drunk with spirituous liquors, and while they were utterly unconscious of what they were doing, were permitted to sign, and did sign, their assent to the treaty.

These facts, and many others equally revolting, reprehensible, and barbarous, into the details of which we cannot now go, are susceptible of the plainest proof. Indeed, such proof has already been furnished to and now remains in the custody of the Senate of the United States.

To the treaty thus made, after some immaterial amendments, the Senate gave its assent by the casting vote of the presiding officer of that body. In view of these facts, we respectfully submit and insist on the following points:

First. The Indians in the State of New York can only be deprived of their lands with their own *free and voluntary consent*; which consent can only be expressed in the mode sanctioned by the customs and usages which form the common law of their respective tribes.

Second. The Senate of the United States has no power or authority to change the customs or laws of the Indians, nor to prescribe the mode in which their assent to treaties shall be expressed. If the contrary were true, then would it be out of the power of the Indians, as it was put beyond their power in 1838, to express their free and voluntary assent or dissent to any treaty or project which the Senate might propose for their adoption.

Third. In the treaties of 1838, by which the Ogden Company acquired their title to the four Indian reservations, the Senate only acted as the guardians of the rights of the Indians, and simply to ratify the *free and voluntary* alienation of their lands, executed according to their customs and usages. Such *free and voluntary alienation* was a condition precedent, without which the Senate could not act at all, except to declare that the terms of the proposed treaty were such as they would approve; but such approval could not and did not bind the Indians any farther than they had *freely and voluntarily* consented to be bound.

If these positions are true, then we believe it follows that the treaties in

question, procured by bribery, and in a manner clandestine, and contrary to the laws of the Indians, are utterly without force or validity.

In 1842, the pressure of public opinion induced the Ogden Company to consent, or at least to interpose no objection, that the government should treat anew on the subject of their title; and another commissioner on the part of the United States attended at Buffalo to watch over the proceedings in a council of the Indians which immediately assembled. The proceedings of this council were conducted on the basis that the conveyance made in 1838 had fully and legally divested the Indians of their title to all of their four reservations. The Ogden Company did not agree that the Indians had any power to act freely and voluntarily on the question of retaining or surrendering their lands. The commissioner of the United States did not submit to them any such choice. They were called to decide simply whether they would be content with such favor as the Ogden Company might think it advisable, out of deference to public opinion, to concede to them; and the commissioner did submit a treaty, providing, as the best terms which that company would offer, that the Indians might retain two of their reservations, the Cattaraugus and Allegany, in consideration of their surrender of and removal from the Tonawanda and Buffalo reservations, and the release of a proportionate share of the purchase-money of \$202,000. It is worthy of remark that the Ogden Company claim title to the four reservations by the deed of conveyance executed to them by name in 1838. The treaty of 1842 is between the Indians and the United States and does not purport in any manner to have received the sanction of or to be obligatory upon the Ogden Company. The Indians, with great reluctance and hesitation, but without the concurrence of a single individual of the Tonawanda clan, accepted this proposition of the commissioner. Had these Indians been permitted to decide, or even to deliberate on the question, whether they would surrender or retain all their lands, there would have been no doubt, no hesitation, no reluctance, in the prompt and decisive rejection of the terms which were proposed to them.

It is the height of folly and dishonesty to pretend that the treaty of 1842 was the free and voluntary assent of the Indians to the surrender of the Tonawanda and Buffalo reservations. Without power to choose, denied even the right to deliberate, assured that the rejection of the terms proposed would only compel their removal from all of their reservations instead of two, it is in vain to say that the Indians executed that treaty freely and voluntarily.

We believe, and we have the conviction of our consciences to confirm us in our belief, that a contrary conclusion conflicts with every just, moral, or Christian principle. It would substitute brute force for right. It has all of its validity in our power and in the weakness and ignorance of the poor remnant of that race on whom wrongs have been perpetrated as often and as long as they have held possessions to tempt the insatiate avarice of their oppressors.

By the terms of the treaty of 1842 the Indians are required to abandon the Tonawanda and Buffalo reservations on the 1st day of April, 1846. Already are they subjected to continual molestation by the whites, who have purchased some portion of their lands of the Ogden Company, in anticipation of their speedy removal. We are informed that many of the Indians who reside on the Buffalo reservation have gone to Cattaraugus and Allegany, where they are suffering for the want of necessary food, and con-

tinual quarrels among themselves embitter their lives, already made painfully burdensome by their struggle for a scanty subsistence.

The Tonawanda Indians have uniformly and unanimously opposed the treaty in every form in which it has been presented to them, and have at all times refused to receive any portion of the consideration money to be paid by the Ogden Company for their lands. They are firmly attached to the place where they live. Far enough removed from the populous villages and cities to be protected from the contagion of the vices which there prevail, they are not placed beyond the manifold advantages and comforts which the proximity of a civilized and enterprising community extends to them. Between them and us the kindest feelings and intercourse prevail. We do not perceive in their case any necessity for their removal growing out of considerations of policy and expediency. Could they be left to feel and profit by the happy influences which surround them, unmolested by the intrigues and avarice of a band of speculators, who are anxious to tear them from their homes, and seize upon and appropriate their inheritance, we believe that they would soon furnish us with an example of the beneficent results which education can accomplish in the elevation of their social, moral, and intellectual condition.

We respectfully ask the Senate of the United States to review the evidence which has been furnished to them, or, if expedient, to examine the additional testimony which can be procured of the frauds practised on the Indians; and if agreeable to the laws of the land, to revoke the assent which they have given to the sale of the Tonawanda reservation to the Ogden Company.

We submit that such action will be legal as well as just, because it never could have been the design of the United States Senate to give their sanction to a contract procured from the Indians by gross and palpable fraud. Clearly such a contract is void, so far as it imposes by its terms any obligation on the Indians; and if void, we cannot see how its ratification by the Senate can restore validity to it unless that body shall assume the power to alienate the lands of the New York Indians, not only without their consent, but even in spite of their protest and supplications, and in plain violation of the faith and honor of the United States government, pledged to them by treaties, the protection of which they have continually invoked.

And we further respectfully submit that if the faith of the government is indeed pledged to this Ogden Company, so that the revocation of the assent given by the Senate to the treaties in question cannot be made without remuneration to that company, then it is unbecoming a great, and powerful, and just nation, to withhold such remuneration. If the action of the government has been productive of wrong to the poor and defenceless tribes of red men which that government has promised to protect, then the plainest dictates of equity and honor require us to repair that wrong, and to purchase and restore the lands of which we have been made the unintentional instruments to defraud them. If there be no other remedy, we ask the government to purchase the 12,800 acres of land constituting the Tonawanda reservation, and to reconvey it to the clan of Indians who now hold it in possession.

And, inasmuch as doubts have arisen as to the effect of the ratification by the Senate of the treaty of 1842, and claims have been put forth by the Ogden Company that such assent debars the Indians of their right to plead or prove the frauds practised upon them, whenever that treaty may be called

in question by the legal tribunals of the country, we ask that the Senate, by resolution or otherwise, may avow the extent and effect of their assent and deny their purpose or power to legalize and sanction any fraud, which may be susceptible of proof, to impair and invalidate that treaty.

And inasmuch as threats have been made by the agents of the Ogden Company, that, should the Indians refuse or neglect to remove from the Tonawanda reservation, agreeably to the provisions of the treaty of 1842, the government of the United States would employ the military force of the country to compel such removal, we respectfully but most earnestly ask that Congress shall interpose, by resolution of that body, to prevent such proceeding, as subversive of all the legal rights yet remaining to the Indians, and revolting to the feelings of the citizens of this county.

And we respectfully ask the consideration of the legislature of the State of New York to the condition of these Indians, and the legal difficulties which they must encounter, under the present statutes and laws of this State, in contesting the right of the Ogden Company, derived from the treaties of 1838 and 1842, to the Tonawanda reservation. In one instance a judge of the courts of this county has deemed it his duty to refuse an application for a warrant for the removal of intruders from that reservation, under the statute passed March 31, 1821, upon the sole and only grounds that by the treaty it has lost its character of Indian lands, and therefore he would be a trespasser in allowing and issuing such warrant.

We ask for such an amendment or addition to that statute, or other adequate legislation, as will enable the Indians to contest the validity of the treaty, and the rights which the intruders upon their lands have acquired under it. And we trust that speedy action may be taken in relation to this subject, so that these Indians may find in the laws of our State certain protection against the frauds and avarice of which they have too long been the unhappy victims.

The memorial having been read, Mr. Follett, from the committee on resolutions, reported the following :

*Resolved*, That we deeply sympathise with the remnant of the once powerful tribes of Indians who now inhabit the western part of our State, and that we have witnessed with feelings of mortified pride the attempts that have been made, and are now making, to deprive them of their scanty possessions; that we feel ourselves called upon by every principle of justice and by all the dictates of philanthropy, to do all we can to arrest the great wrong that is about to be committed upon them.

*Resolved*, That while we cheerfully bear our united testimony to the morality, good order, industry, and agricultural progress of our neighbors at Tonawanda, we deeply sympathise with them in the difficulties into which they have been brought by the arts of the Ogden Company. We know they have never consented to sell a foot of land, nor have been a party to any treaty for that purpose. We can never approbate the oppressive treaties by which, if not annulled, they are to be forced from the land of their birth. We believe they are unjust: we believe, with them, that they should be abrogated, and we will aid them in their call for justice.

*Resolved*, That as the people of New York have never demanded the removal of these Indians, and would not, if called upon to express their opinion, wish their removal against their free consent, we would regard it as much more worthy the dignity and enlightened justice of our State to

elevate and educate the remnant of our Indians, than to suffer them to be uprooted as a nation, and be made the victims of a mere private speculation.

*Resolved*, That we view the government of this country as standing in the light of *guardians* to the Indians within its territory; and that as the treaty of 1838, and the so-called compromise of 1842, was never asked for or demanded by the Indians, but was brought about by the unwearied efforts and at the solicitation of the Ogden Land Company, we are therefore led to question its justice, and to doubt its binding force upon those who have all the time protested against its consummation.

*Resolved*, That the Congress of the United States, if the same shall be deemed practicable, be requested to arrest the final consummation of this treaty, that time may be afforded for a full, fair, and unprejudiced examination of the means and appliances used to bring about the same; and that the Senate be requested to review the treaties, and the means by which they were consummated; and that if it shall be satisfied that fraud and corruption were the basis upon which they were reared, that it then be called upon, as the *guardians* of the Indians, to abrogate and annul the same.

*Resolved*, That copies of these resolutions, signed by the president, vice presidents, and secretaries, be sent to the President and Senate of the United States, to the legislature of the State of New York, and to the chiefs upon the Tonawanda, Buffalo, Allegany, and Cattaraugus reservations; be published in the papers of western New York, and also that they be published in the Washington Union and the New York Tribune.

The memorial and resolutions were then, on motion of M. Wells Hewitt, esq., received for the consideration of the convention.

They were then discussed at length by Messrs. L. H. Morgan, Samuel Richmond, M. Wells Hewitt, Leverett Seward, Isaac A. Verplanck, D. H. Chandler, J. H. Martindale, and Harry Wilber.

Explanations relative to the treaty of 1842 were made by Mr. Aldrich, and another member of the Society of Friends, who were in attendance.

Jimmy Johnson, head chief of the Six Nations, then addressed the convention, through an interpreter.

The discussion of the memorial and resolutions exhibited in full the circumstances under which the treaties of 1838 and 1842 had been effected, and the difficulties in the way of relieving the Indians from their operation. And, although some of the speakers stated their fears of the impracticability of restoring the title to the Tonawanda reservation to its present occupants, all concurred in expressing their warm sympathies for the heavy misfortunes of the Indians.

The memorial and resolutions were then adopted, by acclamation.

L. H. Morgan, esq., was then appointed a special messenger to bear the proceedings of the convention to the President and Senate at Washington. And thereupon the convention adjourned.

SAMUEL WILLETT, *President*.

ISAAC T. GIFFORD,	}	<i>Vice Presidents.</i>
JAMES R. JACKMAN,		
T. CARY,		
BENAJAH BENEDICT,	}	<i>Secretaries.</i>
S. J. TODD,		

N.

*Petition of the Tonawanda delegates, accompanying the President's message.*

TO THE SENATE OF THE UNITED STATES :

The petition of the undersigned, a delegation of the Tonawanda band of Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents :

That, in addition to the facts set forth in a petition presented to the President of the United States, our Great Father, the guardian of his wards the petitioners, and to your most honorable body, and sent to your honorable body, accompanied by a message relating thereto from our Great Father the President, are the following :

That the Tonawandas hold their reserved lands separately and in severalty as a distinct band of the Senecas ; that as such they have unanimously protested against the sale of their reservation to the Ogden Land Company, or other persons ; and more particularly did they protest, solemnly protest, against the treaties of January 15, 1838, and of May 20, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties.

That said treaties were made without any participation of the Tonawandas whatever, they being their constant and strenuous opposers ; and that no single chief or individual of said band ever approved of them, or executed them, or entered into contract, or agreement, or sale, under them.

That no chief, warrior, or individual of the Tonawanda band of Senecas ever, at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of their land, or ever received a cent for the same from them, or ever made an agreement or treaty of any kind with them.

That the said treaties were made in pursuance of a resolution of your honorable body of June 11 1838, in which the Tonawandas, as a distinct band, were to be assenting parties to make them valid ; which provision has not been complied with, they having never assented to or acquiesced in them.

That at the time the said treaties were before your honorable body for confirmation, the Tonawandas protested against their confirmation ; but which protest of your petitioners was not presented before you or your committee ; which if done, it is firmly believed would never have been confirmed ; and, in fact, were never confirmed by a constitutional majority of two-thirds of the Senate, as the Journal will show.

Notwithstanding all these facts, the said treaties purport to sell and convey to the said Ogden Land Company the reserved lands of the Tonawandas, without adequate consideration : cruelly unjust ; compelling their removal from their lands, from their farms, homes, and from the graves of their fathers.

Therefore, your petitioners most earnestly and humbly pray that your honorable body, taking into full and solemn consideration the facts herein set forth, will exercise your power of revision and construction to the above treaties, being as you are a part of the treaty-making power of the United States—the guardian of the sacred rights of the Indians, and protectors of their interests ; and so revise and act upon those treaties as you may think



fit, and as the immutable principles of justice and equity require, relieving your petitioners from their most unjust and ruinous operation.

And your petitioners will ever pray.

[Original signed by the delegation, and on file in the Senate.]