

1-16-1863

Ottawa Indians of Kansas. Letter from the Secretary of the Interior, asking an appropriation for certain Ottawa Indians in Kansas

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>

 Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Exec. Doc. No. 34, 37th Cong., 1st Sess. (1863)

This House Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

OTTAWA INDIANS OF KANSAS.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

ASKING

An appropriation for certain Ottawa Indians in Kansas.

JANUARY 16, 1863.—Referred to the Committee on Indian Affairs, and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
January 15, 1863.

SIR: I have the honor to transmit herewith a communication of the 14th instant from the Commissioner of Indian Affairs, and copy of a letter to him from C. C. Hutchinson, esq., of the 7th instant, respecting the necessity for certain appropriations by Congress for the Ottawa Indians of Blanchard's Fork and Roche de Bœuf, Kansas, referred to in the second paragraph of the Commissioner's letter, and request that an appropriation, as therein estimated for, may be made by Congress, applicable to the fiscal year 1863-'64, which was omitted in the regular estimates now before Congress, for the reasons stated by him, viz:

For the first of four instalments in money, per 4th article treaty June 24, 1862	\$8,500
For interest on \$34,000, at 5 per centum, per 4th article treaty June 24, 1862	1,700.

A printed copy of the treaty herein referred to is also enclosed.

Very respectfully, your obedient servant,

J. P. USHER, *Secretary.*

HON. GALUSHA A. GROW,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, January 14, 1863.

SIR: I have the honor to call your attention to the estimate submitted to Congress in favor of the Ottawa Indians of Blanchard's Fork and Roche de

Bœuf, and to state that, in consequence of the treaty made with those Indians June 24, 1862, not having been proclaimed until after the adjournment of Congress in July last, I was unable to estimate for the \$18,000 provided to be paid them in September, 1862, in compliance with the provisions of the 4th article of said treaty; and I have therefore to request that the \$18,000 thus estimated for should be deemed applicable to the payment provided to be made for the calendar year 1862, agreeably to the letter of C. C. Hutchinson, agent for said Indians, a copy of which is herewith enclosed.

I have also to request that the following additional estimate for said Indians may be laid before Congress for their action during the present session, which is omitted in the regular estimates, and applicable to the fiscal year 1863-'64:

For the first of four instalments in money, per 4th article treaty	
June 24, 1862	\$8,500
For interest on \$34,000, at 5 per centum, per 4th article treaty	
June 24, 1862	1,700

Referring to the letter of Agent Hutchinson requesting that an appropriation should be made to meet the indebtedness of said Indians, as indicated in the 5th article of said treaty, I would state that I do not so interpret the article of said treaty, but, on the contrary, that the payment thus provided to be made shall be drawn from the funds due the said Ottawas under the provisions of the 4th article of said treaty.

Very respectfully, your obedient servant,

WM. P. DOLE, *Commissioner.*

Hon. JOHN P. USHER,
Secretary of the Interior.

WASHINGTON, *January 7, 1863.*

SIR: Being requested by the Ottawas of Kansas to inquire into the amount of money which they will receive during the year, I find that, excepting the estimates for depredation claims, Congress has been asked to appropriate only the sum of \$18,000.

By reference to the 4th article of the treaty of June, 1862, it will be seen that the sum of \$18,000 is stipulated to be paid in 1862, and that one-fourth, as nearly as may be, of the remaining sum due them shall be paid in the year following. Knowing the desire of the Indians in making this treaty, and what they wished to express by this article, I would respectfully ask for them that you ascertain what amount said Indians will be entitled to receive, under the above 4th article, for commutation of their annuity, and that Congress be asked to make the appropriation at this session, not only for the amount which, under the treaty, was to be paid last September, but for the amount due them for the fiscal year 1863-'64.

Article five of said treaty provides for the payment of debts of the Indians. Persons holding approved claims are to be permitted to purchase with them lands belonging to said tribe, but if the holder does not so elect, said claims are to be paid in money.

Many of these claims are in the hands of settlers in the vicinity, who need their pay for necessities furnished the tribe. The tribe is also desirous of paying them; and in behalf of the Indians I would also respectfully request that Congress be asked to appropriate \$7,500 for that purpose, (that being half the estimated amount,) or such a sum as may seem to you best.

Very respectfully, your obedient servant,

C. C. HUTCHINSON.

Hon. W. P. DOLE, *Commissioner.*

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE OTTAWA INDIANS OF BLANCHARD'S FORK AND ROCHE DE BŒUF. CONCLUDED JUNE 24, 1862.—RATIFICATION ADVISED, WITH AMENDMENT, JULY 16, 1862.—AMENDMENT ACCEPTED JULY 19, 1862.—PROCLAIMED JULY 28, 1862.

Abraham Lincoln, 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 the city of Washington, in the District of Columbia, on the 24th day of June, in the year of our Lord eighteen hundred and sixty-two, by and between William P. Dole, commissioner, on the part of the United States, and the hereinafter named chief and councilmen of the Ottawa Indians of the United Bands of Blanchard's Fork and Roche de Bœuf, now in Franklin county, in the State of Kansas, being duly authorized by said bands, which treaty is in the words and figures following:

Articles of agreement and convention, made and concluded at Washington city, on the 24th day of June, eighteen hundred and sixty-two, by and between William P. Dole, commissioner, on the part of the United States, and the following named chief and councilmen of the Ottawa Indians of the United Bands of Blanchard's Fork and of Roche de Bœuf, now in Franklin county, Kansas, viz: Pem-ach-wung, chief; John T. Jones, William Hurr, and James Wind, councilmen, they being thereto duly authorized by said tribe.

The Ottawa Indians of the United Bands of Blanchard's Fork and of Roche de Bœuf, having become sufficiently advanced in civilization, and being desirous of becoming citizens of the United States, it is hereby agreed and stipulated that their organization, and their relations with the United States, as an Indian tribe, shall be dissolved and terminated at the expiration of five years from the ratification of this treaty; and from and after that time the said Ottawas, and each and every one of them, shall be deemed and declared to be citizens of the United States, to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall, in all respects, be subject to the laws of the United States, and of the State or States thereof in which they may reside: *Provided, further,* That John T. Jones, now a member of the Ottawas, being an educated and experienced man withal, having given many evidences of devotion and loyalty to the government of the United States, he is, at his request and that of the Ottawas, hereby declared to be a citizen of the United States, exempt from the restrictions hereinafter provided, concerning the purchase, alienation, or encumbrance of the Ottawa lands; and after all the selections and allotments herein provided for are made, he is hereby authorized to locate and purchase of the Secretary of the Interior any of the remaining lands of said Ottawas at \$1 25 per acre; but this article shall not deprive the said Jones of any of the pecuniary benefits of this treaty as an Ottawa Indian.

ARTICLE II.

It is hereby made the duty of the Secretary of the Interior to cause a survey of the reservation of the said Ottawas to be made as soon as practicable after the ratification of this treaty, dividing it into 80-acre tracts, with marked stones set at each corner; and said Ottawas having already caused their reservation to be surveyed, and quarter-section stones set, it is hereby stipulated that such survey shall be adopted, in so far as it shall be found correct.

ARTICLE III.

It being the wish of said tribe of Ottawas to remunerate several of the chiefs, councilmen, and headmen of the tribe, for their services to them many years without pay, it is hereby stipulated that five sections of land are reserved and set apart for that purpose, to be apportioned among the said chiefs, councilmen, and headmen as the members of the tribes shall in full council determine; and it shall be the duty of the Secretary of the Interior to issue patents, in fee simple, of said lands, when located and apportioned to said Indians. In addition thereto, said last-named persons, and each and every head of a family in said tribe, shall receive one hundred and sixty acres of land, which shall include his or her house and all improvements, so far as practicable; and all other members of the tribe shall receive eighty acres of land each, and all the locations for the heads of families, made in accordance with this treaty, shall be made adjoining, and in as regular and compact form as possible, and with due regard to the rights of each individual and of the whole tribe.

ARTICLE IV.

To enable said tribe to establish themselves more fully in agriculture, and gradually to increase their preparations for assuming the responsibilities and duties of citizenship, it is stipulated that, subject to the limitations hereinafter mentioned, the sum of eighteen thousand (\$18,000) dollars shall be paid to said tribe in the manner of annuities, out of their moneys now in the hands of the United States, in September, 1862, and subject to the limitations of this treaty. There shall be paid to them in four equal annual payments thereafter, as near as may be, all the moneys which the United States hold, or may hold, in anywise for them, with accruing interest on all moneys remaining with the United States.

ARTICLE V.

It being the desire of the tribe to pay all lawful and just debts against them contracted since they were removed to Kansas, it is agreed that such demands as the council of the tribe and the agent shall approve, when confirmed by the Secretary of the Interior, may be received in payment for the lands hereinafter provided to be sold, or otherwise such debts shall be paid out of the funds of the said Ottawas. But in no case shall more than \$15,000 be allowed and paid for such debts.

ARTICLE VI.

The Ottawas deeming this a favorable opportunity to provide for the education of their posterity, and feeling that they are able to do so by the co-operation of the United States, now, in pursuance of this desire of the Ottawas, after the selections and allotments herein provided have been made, there shall be set apart, under the direction of the Secretary of the Interior, twenty thousand acres of average lands for the purpose of endowing a school for the benefit of said Ottawas; also one section of land, upon which said school shall be located, which section of land shall be inalienable, and upon which, and all the appurtenances and property for school purposes thereon, no tax shall ever be laid by any authority whatever.

Five thousand acres of said land may be sold by the trustees hereinafter named, the proceeds of which may be devoted to the erection of proper buildings and improvements upon said section for reception of the pupils; and the residue of the school lands may, in like manner, be sold from time to time, as full prices can be obtained for the same. The money received therefor shall be loaned upon good real-estate security, to be improved farms in the county of

the reservation, the same not to be a security for more than half the appraised value of the land as returned by the county assessor, and no land to be taken as security for such loan or loans which shall be encumbered in any manner, or the title to which shall have been derived from or held by any judicial, administrator, or executor's sale, or by the sale of any person acting in a fiduciary capacity. The security shall never be avoided on account of any rate of interest reserved, and the interest only shall be applied to the support of the school, so that the principal sum shall never be diminished.

And to the end that the Ottawas may derive the greatest advantage from said school, the pupils shall be instructed and practiced in industrial pursuits suitable to their age and sex, as well as in such branches of learning as the means of the institution and the capacity of the pupils will permit.

The lands hereby set apart shall not be subject to taxation until they are sold. They may be sold upon such credit as the trustees may think most for the interest of the enterprise. Security for the payment shall be taken with interest, the interest to be paid annually; but no title shall be made until the purchase-money is all paid.

John T. Jones, James Wind, William Hurr, Joseph King, who are Ottawas, and John G. Pratt, and two other citizens of Kansas, who shall be elected by the said Ottawa Indians, are, by the parties agreed, to be trustees to manage the funds and property by this article set apart. They and their successors shall have the control and management of the school, and the funds arising from the sales of lands set apart therefor, and also the reserved section whereon the school is situated. Upon the death, resignation, or refusal to act, by either of them, the vacancy shall be filled by the survivors, provided that the board of trustees shall always have three white citizens members of said board.

A majority of the trustees shall form a quorum to transact business, but there shall be two of the white trustees present at the transaction of business. All acts of the trustees shall be recorded in a book or books to be by them kept for that purpose, and the proceedings of each meeting shall be signed by the president, to be by them elected out of their number. They shall also elect a treasurer and secretary from their number. All contracts of the trustees shall be in the name of their treasurer, who shall be competent to sue and be sued in all matters affecting the trust; he shall give bond conditioned for the faithful discharge of his duty, and the proper accounting for all money or property of the trust coming to his hands, with at least two good freehold sureties, in the penalty of ten thousand dollars, to be approved by a judge of a court of record in Kansas.

And the secretary and treasurer may be allowed, from time to time, such sum, from the proceeds of the trust, as the trustees in their judgment shall think just. Upon a sale of any of the lands by the trustees, upon their request, the same shall be conveyed by the United States, by patent, to the purchaser.

And it is hereby expressly provided and agreed that the children of the Ottawas and their descendants, no matter where they may emigrate, shall have the right to enter said school and enjoy all the privileges thereof, the same as though they had remained upon the lands by this treaty allotted.

ARTICLE VII.

There shall be set apart ten acres of land for the benefit of the Ottawa Baptist church, and said land shall include the church buildings, mission house, and graveyard, and the title to said property shall be vested in a board of five trustees, to be appointed by said church, in accordance with the laws of the State of Kansas.

And in respect for the memory of Rev. J. Meeker, deceased, who labored with unselfish zeal for nearly 20 years among said Ottawas, greatly to their

spiritual and temporal welfare, it is stipulated that 80 acres of good land shall be, and hereby are, given, in fee simple, to each of the two children of said Meeker, viz: Emmeline and Eliza; their lands to be selected and located as the other allotments herein provided are to be selected and located, which lands shall be inalienable, the same as the lands allotted to the Ottawas.

And all the above-mentioned selections of lands shall be made by the agent of the tribe, under the direction of the Secretary of the Interior. And plats and records of all the selections and locations shall be made, and upon their completion and approval proper patents by the United States shall be issued to each individual member of the tribe and person entitled for the lands selected and allotted to them, in which it shall be stipulated that no Indian, except as herein provided, to whom the same may be issued, shall alienate or encumber the land allotted to him or her in any manner, until they shall, by the terms of this treaty, become a citizen of the United States; and any conveyance or encumbrance of said lands, done or suffered, except as aforesaid, by any Ottawa Indian, of the lands allotted to him or her, made before they shall become a citizen, shall be null and void.

And forty acres, including the houses and improvements of the allottee, shall be inalienable during the natural lifetime of the party receiving the title: *Provided*, That such of said Indians as are not under legal disabilities by the local laws may sell to each other such portions of their lands as are subject to sale, with the consent of the Secretary of the Interior, at any time.

ARTICLE VIII.

That upon the ratification of this treaty a census of all the Ottawas entitled to land or money under the treaty shall be taken under the direction of the Secretary of the Interior.

The principal to be paid to the minors shall be paid to their parents, unless the council of the tribe shall object because of the incompetency of the parent, growing out of ignorance, profligacy, or any other good cause; the council may also object to the payment of the money to any such incompetent which may be coming to himself or herself; and in all such cases the principal sum shall be withheld, and only the annuity paid, until such minor comes of age, or the disability is removed by the action of the council: *Provided, further*, That the money of minors may in all cases be paid to guardians appointed by the local laws.

ARTICLE IX.

It being the desire of the said Ottawas, in making this treaty, to insure, as far as possible, the settlement of their reservation by industrious whites, whose example shall be of benefit to the tribe at large, it is stipulated that after all the above-mentioned locations, assignments, and sales are made, the remainder of the land shall be sold to actual settlers at not less than \$1 25 per acre, in the following manner: Any white person desiring to obtain any unsold unlocated tract of the land may file his proposition, in writing, with the agent of the Ottawas, for the purchase of the tract, stating the price which he proposes to pay for said tract, not less than \$1 25 per acre, a copy of which proposition, as well as all others herein contemplated, shall be posted for thirty days, dating from the first posting at the agency, in some conspicuous place; and if no person will propose a better price therefor within thirty days next after the first posting, in which further proposition the first person may join, he, or such other person as shall have offered the best price, shall, upon the payment of one-quarter of the price offered, be taken and deemed the purchaser of said tract, and shall be entitled to a patent therefor from the United States, at the end of one year, if he shall pay the remainder of the price offered, have occupied the land, and placed lasting

and valuable improvements upon said tract to the extent and value of two hundred dollars to each quarter section entered: *Provided*, That if said Ottawas, by their council, shall, at any time before any person shall become the purchaser of any tract of land, file their protest in writing against such purchaser, he shall not be permitted to enter upon said lands or become the purchaser thereof; and white persons not purchasers shall not be permitted to settle upon said lands, it being the duty of the agent to prevent such settlement, or their occupancy by the whites who are not purchasers, and only to the extent of their purchase: *And provided, further*, That if any purchaser shall fail to pay for the land by him purchased under this treaty at the time stipulated, it shall be the duty of the agent to dispossess him as an intruder upon the lands, and his advances, payments, and all his improvements shall enure to the benefit of the Ottawas, and the land shall be sold for their benefit, as herein provided. But no person under this article shall be entitled to enter more than 320 acres.

And all the lands which are not thus entered with the agent within two years from the ratification of this treaty may, upon the request of the council, be offered for sale at not less than \$1 25 per acre, upon a credit of one year, under the direction of the Secretary of the Interior; and if any lands thereafter remain unsold, they may be sold upon such terms as the council of said tribe and the Secretary of the Interior shall mutually agree upon. And all the moneys derived from the sales of the above-described lands shall be paid at the time and place where the Secretary of the Interior may direct.

ARTICLE X.

And it is stipulated that the United States shall pay to the said Ottawas the claims for stolen ponies, cattle, and timber, already reported and approved by the Secretary of the Interior, amounting to \$13,005 95; and also other claims for damages within two years, or since the taking of testimony for the above-mentioned damages, upon the presentation of sufficient proof, provided such last-mentioned claims shall not exceed \$3,500.

ARTICLE XI.

It is hereby made the duty of the Indian department to appoint an interpreter for said tribe, in the customary manner, to be continued during the pleasure of the Secretary of the Interior. And it is expressly understood that all expenses incurred by the stipulations of this treaty shall be paid out of the funds of the aforementioned tribe of Ottawas, and their annuities shall be paid semi-annually.

In testimony whereof, the said Wm. P. Dole, commissioner as aforesaid, and the undersigned chief and councilmen of the United Bands of Blanchard's Fork and of Roche de Bœuf, in Franklin county, Kansas, have hereunto set their hands and seals at the place and on the day and year hereinbefore written.

WM. P. DOLE, <i>Commissioner</i> .	[SEAL.]
PEM-ACH-WUNG, his x mark.	[SEAL.]
JOHN T. JONES.	[SEAL.]
WILLIAM HURR.	[SEAL.]
JAMES WIND.	[SEAL.]

Interpreted by John T. Jones, and signed by the respective parties in presence of—

CLINTON C. HUTCHINSON, *Indian Agent*.

CHARLES E. MIX.

ANTOINE GOKEY, his x mark, *United States Interpreter*.

And whereas the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the six-

teenth day of July, one thousand eight hundred and sixty-two, advise and consent to the ratification of the same by a resolution, and with an amendment, in the words and figures following, to wit :

IN SENATE OF THE UNITED STATES, July 16, 1862.

Resolved, (two-thirds of the senators present concurring,) That the Senate advise and consent to the ratification of the articles of agreement and convention made and concluded at Washington city on the twenty-fourth day of June, eighteen hundred and sixty-two, by and between William P. Dole, commissioner, on the part of the United States, and the following named chief and councilmen of the Ottawa Indians of the united bands of Blanchard's Ford and of Roche de Boeuf, now in Franklin county, Kansas, viz : Pem-ach-wung, chief ; John T. Jones, William Hurr, and James Wind, councilmen, they being thereto duly authorized by said tribe, with the following amendment :

Strike out from the first article the following proviso :

“Provided, further, That John T. Jones, now a member of the Ottawas, being an educated and experienced man withal, having given many evidences of devotion and loyalty to the government of the United States, he is, at his request and that of the Ottawas, hereby declared to be a citizen of the United States, exempt from the restrictions hereinafter provided, concerning the purchase, alienation, or encumbrance of the Ottawa lands ; and after all the selections and allotments herein provided for are made, he is hereby authorized to locate and purchase of the Secretary of the Interior any of the remaining lands of said Ottawas at one dollar and twenty-five cents per acre. But this article shall not deprive the said Jones of any of the pecuniary benefit of this treaty as an Ottawa Indian.”

Attest :

J. W. FORNEY, *Secretary*,
By W. HICKEY, *Chief Clerk*.

And whereas the foregoing amendment having been fully interpreted and explained to the aforesaid chief and councilmen of the Ottawa Indians, they did, on the nineteenth day of July, one thousand eight hundred and sixty-two, at Washington city, in the District of Columbia, agree to and ratify the same, in the words and figures following, to wit :

Whereas the Senate of the United States did, on the 16th day of July, A. D. 1862, advise and consent to the ratification of the “articles” of agreement and convention, made and concluded at Washington city on the twenty-fourth day of June, eighteen hundred and sixty-two, between William P. Dole, commissioner, on the part of the United States, and certain chief and councilmen representing the Ottawa tribe of Indians, with the following amendment, viz :

Strike out from the first article the following proviso :

“Provided, further, That John T. Jones, now a member of the Ottawas, being an educated and experienced man withal, having given many evidences of devotion and loyalty to the government of the United States, he is, at his request and that of the Ottawas, hereby declared to be a citizen of the United States, exempt from the restrictions, hereinafter provided, concerning the purchase, alienation, or encumbrance of the Ottawa lands ; and after all the selections and allotments herein provided for are made, he is hereby authorized to locate and purchase of the Secretary of the Interior any of the remaining lands of said Ottawas, at one dollar and twenty-five cents per acre. But this article shall not deprive the said Jones of any of the pecuniary benefit of this treaty as an Ottawa Indian.”

We, the undersigned chief and councilmen, representing the Ottawa tribe of Indians, having heard the foregoing amendment read, and the same having been fully explained to us by our interpreter, do hereby agree to and ratify the same.

PEM-ACH-WUNG, his x mark.

J. T. JONES.

WILLIAM HURR.

JAMES WIND.

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

Interpreted by John T. Jones, and signed by the respective parties in presence of—

CLINTON C. HUTCHINSON, *United States Indian Agent.*

WM. P. DOLE.

CHARLES E. MIX.

Now, therefore, be it known that I, Abraham Lincoln, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the sixteenth day of July, eighteen hundred and sixty-two, accept, ratify, and confirm said treaty, with the amendment as aforesaid.

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, this twenty-eighth day of July, in the [SEAL.] year of our Lord eighteen hundred and sixty-two, and of the independence of the United States the eighty-seventh.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State.*

H. Ex. Doc. 34—2