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INDIAN LANDS IN KANSAS.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

IN ANSWER TO

A resolution of the House of the 11th ultimo, transmitting report relative to the sale of certain Indian lands in Kansas.

JANUARY 8, 1868.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,

Washington, D. C., January 7, 1868.

SIR: On the 12th ultimo this department received and referred to the Commissioner of Indian Affairs, for immediate report, a resolution of the House of Representatives, of the 11th December, 1867, in the following words, viz:

Resolved, That the Secretary of the Interior be directed to inform this House whether the title to all Indian lands in the State of Kansas has been extinguished, or what part thereof; when the same was so extinguished; who purchased said lands; at what price; whether the sale thereof was publicly advertised, or in what manner were they disposed of; also, if any were sold by contract, to furnish copies of the same.

I now transmit herewith a copy of the report of the Acting Commissioner of Indian Affairs on the subject, dated the 4th instant, and the papers therein referred to.

In respect to the sale of the Cherokee neutral lands, I deem it proper to remark that by the terms of the treaty it is optional with the Secretary of the Interior to sell them in separate tracts at not less than an average of \$1 25 per acre, or in a body at not less than one dollar per acre.

The provision of the treaty for the sale in separate tracts is, that after the lands shall have been surveyed they shall be appraised at an average of not less than one dollar and a quarter per acre, exclusive of improvements, and after advertising for sealed bids, shall be sold to the highest bidder, for cash, in parcels not exceeding one hundred and sixty acres, and at not less than the appraised value.

Another provision of the treaty authorizes the Secretary of the Interior to sell the whole of said lands not occupied by actual settlers, in a body, to any responsible party, for cash, for a sum not less than one dollar per acre.

The sale in separate parcels, on sealed bids, is subject to the disadvantages of requiring years of time, and of leaving all the refuse lands in the hands of the Indians unsold. I did not doubt that an immediate sale in a body, at one dollar per acre, would be greatly more to the interest of the Indians than a tardy sale of the choice lands in separate tracts at the appraised value, with the inferior lands left undisposed of for years, and have, consequently, been desirous to find a purchaser who would take them all, good and bad together, at one dollar per acre.

With this view I suggested and urged, at the last session of Congress, that the United States should become the purchaser at one dollar per acre, and issue bonds in payment thereof. Such a proposition was, I believe, submitted to Congress, but not accepted.

After the adjournment of Congress I authorized an unofficial statement to be made in newspapers that the proposals for the purchase of said lands in a body would be received at the department until the first of October.

Early in October Mr. James F. Joy, of Detroit, Michigan, proposed to take the lands in a body at one dollar per acre, and pay the cash for them.

No other offer was made. I accepted Mr. Joy's, and concluded a contract with him, from which all lands occupied by actual settlers at the date of the ratification of the treaty were excluded. A copy of the contract is herewith furnished.

The money would have been paid by Mr. Joy, and the lands conveyed at the time of the contract, had the number of acres sold been known. But as all the lands occupied by actual settlers were excluded from the sale, it was necessary to ascertain the quantity thus occupied to determine how many acres remained to be paid for by Mr. Joy. Commissioners are now engaged in estimating and appraising the improved tracts. As soon as they shall have completed their labors and reported, the contract will be consummated by accepting the purchase money, and causing the land to be patented to the purchaser.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

HON. SCHUYLER COLFAX,

Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 4, 1868.

SIR: I have the honor to acknowledge the receipt, by reference from you on the 12th ultimo, of a resolution of the House of Representatives dated the 11th ultimo, which resolution is as follows, viz:

Resolved, That the Secretary of the Interior be directed to inform this House whether the title to all Indian lands in the State of Kansas has been extinguished, or what part thereof; when the same was so extinguished; who purchased said lands; at what price; whether the sale thereof was publicly advertised, or in what manner were they disposed of; also, if any were sold by contract, to furnish copies of the same;

and upon which you direct an immediate report from this office.

The following is respectfully submitted in response to said resolution, viz: all of the lands in the State of Kansas known as public lands, to which the Indian title has been extinguished, which have been sold, have first been publicly proclaimed by the President in the manner prescribed by the laws governing the sale of the public lands of the United States.

The following named tribes of Indians have title, or claim title, which has not been extinguished, to lands in different parts of the State of Kansas, viz: the Kickapoos, Pottawatomies, Shawnees, Miamies, confederated tribe of Kaskaskia, Peoria, Piankeshaw, and Wea Indians, Ottawas, Chippewas, and Munsees, Sacs and Foxes of the Mississippi, Kansas, New York Indians, Osages, Iowas, Otoes, and Missourias.

The residue of the Kickapoo lands, remaining after the allotments were made to the members of the tribe, was sold to the Atchison and Pike's Peak Railroad Company, in accordance with the provisions of the treaty concluded with said tribe June 28, 1862. (See Statutes at Large, vol. 13, page 623.)

The contract and bond filed by said company (copies herewith enclosed, marked A and B) contain a full statement of the terms and conditions upon which this sale was made.

By the provisions of the treaties concluded with the Delaware Indians, May 30, 1860, and July 2, 1861, (see U. S. Statutes at Large, vol. 12, pp. 1129 and 1177,) 223,966.78 acres of surplus Delaware Indian lands were sold to the Leavenworth, Pawnee, and Western Railroad Company. Reference is respectfully made to these treaties as containing the full history of this sale, it having been consummated in strict compliance therewith.

By contract dated August 31, 1866, between Hon. James Harlan, Secretary of the Interior, and Leonard T. Smith, esq., president of the Missouri River Railroad Company, (copy herewith enclosed,) there was sold to said railroad company the residue of the Delaware diminished reservation, amounting to 92,598.33 acres, in accordance with the provisions of the treaty concluded with said Indians July 4, 1866, (see Laws 1st session 39th Congress, Treaties, p. 109,) and for which land payment has been made and patent has been issued in accordance with the terms of said contract.

A contract has been entered into, dated October 9, 1867, (see copy enclosed,) for the sale of the Cherokee neutral lands in Kansas to James F. Joy, of the city of Detroit, in accordance with the authority contained in a provision of the seventeenth article of the treaty concluded with the Cherokee Indians July 19, 1866. (Laws 1st session 39th Congress, Treaties, p. 115.)

Lands ceded to the United States in trust by the provisions of the treaty concluded with the Delaware tribe of Indians, May 6, 1854, (U. S. Statutes at Large, vol. 10, p. 1082,) by the provisions of the treaty concluded with the Iowa tribe of Indians, May 17, 1854, (U. S. Statutes at Large, vol. 10, p. 1069;) and by the provisions of the treaty concluded with the united tribes of Kaskaskia and Peoria, Piankeshaw and Wea Indians, May 30, 1854, (U. S. Statutes at Large, vol. 10, p. 1082,) were sold at public auction in accordance with the terms prescribed by said treaties.

Lands have been sold in trust upon sealed proposals, duly invited by public advertisement, to the highest bidder for cash, for the Kansas tribe of Indians, in accordance with the provisions of the treaties concluded with said Indians October 5, 1859, and March 13, 1862, (U. S. Statutes at Large, vol. 12, pp. 1111 and 1221,) and for the Sacs and Foxes of the Mississippi, in accordance with the provisions of the treaty concluded with said Indians October 1, 1859, (copy herewith enclosed,) and have been patented to the highest bidders at such sales.

Lands have been sold, in trust for the Ottawa Indians of Blanchard's Fork and Roche de Bœuf, to actual settlers, required to make improvements in accordance with the provisions of the treaty concluded with said Indians June 24, 1862. (United States Statutes at Large, vol. 12, p. 1237.)

Lands, which had been allotted in severalty, have been conveyed to white persons by members of the Shawnee tribe, by members of the Miami tribe, and by members of the united tribes of Kaskaskia and Peoria, Piankeshaw and Wea Indians, their deeds of conveyance requiring the approval of the Secretary of the Interior; in accordance with the provisions of the treaties with these tribes, hereinbefore referred to, and the eleventh section of the act of Congress, approved March 3, 1843. (Statutes at Large, vol. 11, p. 430.)

By the provisions of the treaty concluded with the Great and Little Osage Indians, Sept. 29, 1865, (Laws second session 39th Congress, Treaties, p. 135,) cession is made to the United States of two tracts of land therein described. Provision is made for the payment of \$300,000 for one of these tracts, this being an absolute sale to the United States. The other tract is ceded to the United States in trust, to be sold for the benefit of said Indians.

A sale of 23,438 acres of land in trust for the united tribes of Kaskaskia and Peoria, Piankeshaw and Wea Indians, has been made during the past year to actual settlers, at prices ranging from three to five dollars per acre. The sale was made by arrangement between the Indians and the settlers, submitted to and

approved by the President, as authorized by the thirteenth article of the treaty of 1854 with said Indians, hereinbefore referred to.

It is proper to state that it is understood that a contract for the sale of the Cherokee neutral lands in Kansas was made by late Secretary Harlan, and that the Attorney General of the United States rendered an opinion adverse to the validity of such contract. There is, however, nothing official in this office which furnishes any information in reference thereto, but the files and records of the department proper will most probably furnish evidence of all the facts in the case.

The foregoing embraces as full a reply to the resolution as can be given without going into details, which would involve almost endless labor.

If a literal compliance with the direction of the resolution were required, it would be necessary to commence with the first information of the territory, now embraced in the State of Kansas, and give the history of the treaty negotiations with all the Indians who have ever occupied or claimed title to any portion of said territory. It would be necessary to give the name of the purchaser, number of acres purchased, amount paid for the same, and date and manner of sale in all cases where lands have been sold by the United States as public lands, or in trust for Indians; but it is not believed that it was the design to direct such a report, and it is thought that the details given will afford all the information the resolution was intended to obtain.

The resolution is herewith returned.

Very respectfully, your obedient servant,

CHARLES E. MIX,
Acting Commissioner.

Hon. O. H. BROWNING,
Secretary of the Interior.

A.

This obligation witnesseth that whereas by the terms of a certain treaty between the United States of America and the Kickapoo tribe of Indians, made at the agency of said Kickapoos, in the State of Kansas, upon the 28th day of June, A. D. 1862, and ratified by the Senate March 13, 1863, and proclaimed by the President of these United States on the 28th day of May, 1863, it is provided in section fifth that the Atchison and Pike's Peak Railroad Company, a corporation existing under the laws of the State of Kansas, shall have the right to purchase a portion of the lands owned by said Kickapoo tribe, being the balance of all their lands after certain parts or parcels have been set apart for said Indians; and whereas there was set apart for them, by direction of the Commissioner of Indian Affairs, twenty-eight thousand five hundred and eighty-four and sixty-two one-hundredths acres of said lands, which allotments were fully made and approved by the Secretary of the Interior February 21, 1865; and whereas the president of this company has been notified by the Commissioner of Indian Affairs that the balance of said lands, being one hundred and twenty-three thousand eight hundred and thirty-two and sixty-one one-hundredths acres, are now subject to be purchased by said company; and whereas, by section fifth of said treaty, said railroad company is required to accept and purchase said lands within six months from the date of the allotments of certain portions to the said Indians: Now, therefore, this company hereby accepts and purchases one hundred and twenty-three thousand eight hundred and thirty-two and sixty-one one-hundredths acres of said lands, being the remainder of the said Kickapoo lands not otherwise disposed of, upon the terms and conditions named in said treaty.

In witness thereof this company has caused its corporate seal to be affixed, and attested by the signature of its president this 16th day of August, 1865.

[SEAL.]

SAMUEL C. POMEROY,

President Atchison and Pike's Peak Railroad Company.

[5-cent revenue stamp.]

B.

Know all men by these presents, that the Atchison and Pike's Peak Railroad Company, (Central Branch Union Pacific,) a corporation existing under the laws of the State of Kansas, is held and firmly bound unto the United States in the penal sum of three hundred and ten thousand (310,000) dollars, good and lawful money of the United States, to which payment well and truly to be made it hereby binds itself, its successors and assigns, firmly by these presents, sealed by its corporate seal, and executed by the signature of its president and secretary, duly authorized by its board of directors this seventh day of September, 1865.

The condition of this obligation is such that whereas a treaty made with the United States and the Kickapoo tribe of Indians on the 28th day of June, A. D. 1862, and ratified by the Senate of the United States March 13, 1863, provided that the above-named railroad company should have the right to purchase at one dollar and twenty-five cents per acre the diminished reservation of said tribe after certain specified allotments had been made; and whereas said treaty further specified that upon the completion of said railroad by the aforesaid company, as therein specified, patents for said land should be issued to said company upon the payment as aforesaid of one dollar and twenty-five cents per acre: Now, therefore, if said company shall faithfully comply with the provisions of said treaty, both in respect to building the road and paying for the land in manner and form as stipulated in said treaty, and do and perform all other acts required by the said treaty, then this obligation to be void and of no effect; otherwise to remain in full force and virtue.

In witness whereof the company has authorized the signatures of its officers, and affixed its corporate seal hereto, at their office, 61 Cedar street, in the city of New York, on the day and year first above written.

[SEAL.]

SAMUEL C. POMEROY,

President A. and P. P. Railroad Company.

JAMES WADSUERTH,

Secretary of the A. and P. P. Railroad Company.

[25-cent revenue stamp.]

This agreement, made and entered into this ninth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, by and between Orville H. Browning, Secretary of the Interior, and James F. Joy, of the city of Detroit, in the State of Michigan, witnesseth: Whereas, by the seventeenth article of a treaty between the United States of America and the Cherokee nation of Indians, made and concluded on the nineteenth day of July, A. D. 1866, and proclaimed on the eleventh day of August in said year, and the two several provisos to the said section annexed, there was ceded in trust to the United States certain parcels of land therein mentioned, with power to the Secretary of the Interior to sell all of the said ceded lands, with the exception of such parts thereof as are embraced within the tenor and effect of the said two provisions to the seventeenth article of said treaty, for cash, for the sum

of not less than one dollar per acre; and whereas the said James F. Joy has proposed to become the purchaser of said lands, and has for that purpose offered to pay therefor the sum of one dollar per acre in cash, which is, in the opinion of the Secretary of the Interior, an eligible and satisfactory price for the same; and whereas the quantity of land embraced within the exception as aforesaid is as yet unascertained, by reason whereof the number of acres of said ceded lands which the Secretary of the Interior is authorized to sell in the manner and at the price aforesaid remains for the present unknown:

Now, therefore, I, Orville H. Browning, Secretary of the Interior, acting for and on behalf of the United States, and by virtue of the power upon me by the said treaty in that behalf conferred, do hereby agree to and with the said James F. Joy to sell unto him, his heirs and assigns, all of the hereinbefore mentioned lands which were by the seventeenth section of said treaty ceded in trust to the United States, with the exception of such parts thereof as are embraced within the tenor and effect of the said two provisos to the seventeenth section of said treaty, and which parts of said ceded lands are not included in this contract, at and for the sum of one dollra per acre in cash, payable and to be paid as soon as the number of acres hereby contracted to be sold is ascertained, and that on the full payment of the said purchase money a patent or patents shall be in due form issued granting the same unto the said James F. Joy, his heirs and assigns: *Provided, however,* That this contract is made subject to the rights reserved by the nineteenth article of said treaty to such of the Cherokees as, being heads of families, resided, at the date of the ratification of said treaty, on any of the said ceded lands.

And the said James F. Joy hereby, on his part, agrees to pay unto the Secretary of the Interior, or to such other officer of the government of the United States as may be authorized to receive the same, the sum of one dollar in cash for each acre of land by this instrument contracted to be sold, as soon as the number of said acres shall be ascertained, and also to pay, for the benefit of such of the Cherokees as, being heads of families, resided on any of the said ceded lands at the date of the ratification of said treaty, and desire to remove from the same, the value of their improvements thereon reserved to them by the nineteenth article of said treaty, as soon as such value is ascertained in the manner provided in said article.

In witness whereof I, Orville H. Browning, Secretary of the Interior, have subscribed my name and caused the seal of said department to be affixed hereto; and the said James F. Joy has hereto, on his part, subscribed his name. All done in duplicate, the day and year first above written.

[SEAL.]

O. H. BROWNING,

Secretary of the Interior.

JAMES F. JOY,

By N. BUSHNELL, his agent.

TREATY BETWEEN THE UNITED STATES AND THE CONFEDERATED TRIBES OF SACS AND FOXES OF THE MISSISSIPPI, MADE OCTOBER 1, 1859; RATIFIED JULY 9, 1860.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

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

Whereas a treaty was made and concluded at the Sac and Fox agency, in the Territory of Kansas, on the first day of October, eighteen hundred and fifty-nine, by and between Alfred B. Greenwood, commissioner on the part of the

United States, and certain chiefs and headmen hereinafter named representing the confederated tribes of Sacs and Foxes of the Mississippi, which treaty is in the following words, to wit :

Articles of agreement and convention made and concluded at the Sac and Fox agency, in the Territory of Kansas, on the first day of October, in the year of our Lord one thousand eight hundred and fifty-nine, by and between Alfred B. Greenwood, commissioner on the part of the United States, and the following named chiefs and delegates representing the confederated tribes of Sacs and Foxes of the Mississippi, viz: Ke-o-kuk, Mack-ap-sah-pee, Shaw-pah-caw, Mat-tah-tah, My-ah-pit, Kaw-ah-kee, Ka-sha-mah-me, Maw-me-wone-cah, and Che-ko-skuk, they being thereto duly authorized by said confederated tribes.

ARTICLE 1. The Sacs and Foxes of the Mississippi having now more lands than are necessary for their occupancy and use, and being desirous of promoting settled habits of industry and enterprise among themselves by abolishing the tenure in common by which they now hold their lands, and by assigning limited quantities thereof, in severalty, to the individual members of the tribe, to be cultivated and improved for their individual use and benefit, it is hereby agreed and stipulated that the portion of their present reservation contained within the following boundaries—that is to say: beginning at a point on the northern boundary line of their reservation, six miles west of the northeastern corner of the same; running thence due south, to the southern boundary of the same, twenty miles; thence west, and along said southern boundary, twelve miles; thence due north to the northern boundary of said reservation, twenty miles; and thence east along said boundary line twelve miles, to the place of beginning—estimated to contain about one hundred and fifty three thousand and six hundred acres—shall be set apart and retained by them for the purposes aforesaid.

ARTICLE 2. Out of the lands so set apart and retained there shall be assigned to each member of said confederate tribe, without distinction of age or sex, a tract of eighty acres, to include, in every case, as far as practicable, a reasonable portion of timber. One hundred and sixty acres of said retained lands shall also be set apart and appropriated to the use and occupancy of the agent for the time being of said confederate tribe; and one hundred and sixty acres shall also be reserved for the establishment and support of a school for the education of the youth of the tribe. The location of the tracts, the assignment of which is provided for in this article, shall be made in as regular and compact a manner as possible, and so as to admit of a distinct and well-defined exterior boundary, embracing the whole of them and any intermediate portions or parcels of land or water not included in or made part of the tracts assigned in severalty. All such intermediate parcels of land and water shall be owned by the Sacs and Foxes of the Mississippi in common; but, in case of increase in the tribe, or other cause, rendering it necessary or expedient, the said intermediate parcels of land shall be subject to distribution and assignment in such manner as the Secretary of the Interior may prescribe and direct. The whole of the lands, assigned or unassigned, embraced within said exterior boundary, shall constitute and be known as the reservation of the Sacs and Foxes of the Mississippi; and all laws which have been, or may be, passed by the Congress of the United States regulating trade and intercourse with Indian tribes shall have full force and effect over the same, and no white person, except such as shall be in the employment of the United States, shall be allowed to reside or go upon any portion of said reservation, without the written permission of the superintendent of the central superintendency, or of the agent of the tribe.

ARTICLE 3. The division and assignment in severalty among the Sacs and Foxes of the Mississippi of the land hereinbefore reserved for that purpose shall be made under the direction of the Secretary of the Interior, and his de-

cision of all questions arising thereupon shall be final and conclusive. Certificates shall be issued by the Commissioner of Indian Affairs for the tracts assigned in severalty, specifying the names of the individuals to whom they have been assigned, respectively, and that the said tracts are set apart for the exclusive use and benefit of the assignees and their heirs. And said tracts shall not be alienated in fee, leased, or otherwise disposed of, except to the United States, or to members of the Sac and Fox tribe, and under such rules and regulations as may be prescribed by the Secretary of the Interior. And said tracts shall be exempt from taxation, levy, sale, or forfeiture, until otherwise provided by Congress. Prior to the issue of the certificates aforesaid, the Secretary of the Interior shall make such rules and regulations as he may deem necessary or expedient respecting the disposition of any of said tracts, in case of the death of the person or persons to whom they may be assigned, so that the same shall be secured to the families of such deceased persons; and should any of the Indians to whom tracts shall be assigned abandon them, the said Secretary may take such action in relation to the proper disposition thereof as, in his judgment, may be necessary and proper.

ARTICLE 4. For the purpose of establishing the Sacs and Foxes of the Mississippi comfortably upon the lands to be assigned to them in severalty, by building them houses, and by furnishing them with agricultural implements, stock animals, and other necessary aid and facilities for commencing agricultural pursuits under favorable circumstances, the lands embraced in that portion of their present reservation not stipulated to be retained and divided as aforesaid shall be sold, under the direction of the Secretary of the Interior, in parcels not exceeding one hundred and sixty acres each, to the highest bidder, for cash; the sale to be made upon sealed proposals, to be duly invited by public advertisements, and the proceeds thereof to be expended, for the purposes hereinbefore recited, in such manner as the Secretary of the Interior may think proper. And should any of the tracts so to be sold have upon them improvements of any kind which were made by or for the Indians, or for government purposes, the proposals therefor must state price for both the land and improvements. And if, after assigning to all the members of the tribe entitled thereto their proportion of land in severalty, there shall remain a surplus of that portion of the reservation retained for that purpose, outside of the exterior boundaries of the lands assigned in severalty, the Secretary of the Interior shall be authorized and empowered, whenever he shall think proper, to cause such surplus to be sold in the same manner as the other lands to be so disposed of, and to apply the proceeds of such sale to the purposes and in the mode hereinbefore provided with respect to that portion of their present reservation not retained for distribution.

ARTICLE 5. The Sacs and Foxes of the Mississippi, being anxious to relieve themselves from the burden of their present liabilities, and it being essential to their best interest that they should be allowed to commence their new mode of life free from the embarrassments of debt, it is stipulated and agreed that debts which may be due and owing at the date of the signing and execution hereof, either by the said confederated tribes of Sacs and Foxes or by individual members thereof, shall be liquidated and paid out of the fund arising from the sale of their surplus lands, so far as the same shall be found to be just and valid on an examination thereof, to be made by their agent and the superintendent of Indian affairs for the central superintendency, subject to revision and correction by the Secretary of the Interior.

ARTICLE 6. Should the proceeds of the surplus lands aforesaid prove insufficient to carry out the purposes and stipulations of this agreement, and further aid be, from time to time, requisite to enable the Sacs and Foxes of the Mississippi to sustain themselves successfully in agricultural or other industrial pursuits, such additional means as may be necessary therefor shall be taken from the moneys

due and belonging to them under the provisions of former treaties; and so much of said moneys as may be required to furnish them further aid as aforesaid shall be applied in such manner, under the direction of the Secretary of the Interior, as he shall consider best calculated to improve and promote their welfare; and, in order to render unnecessary any further treaty engagements or arrangements hereafter with the United States, it is hereby agreed and stipulated that the President, with the assent of Congress, shall have full power to modify or change any of the provisions of former treaties with the Sacs and Foxes of the Mississippi in such manner and to whatever extent he may judge to be necessary and expedient for their welfare and best interest.

ARTICLE 7. The Sacs and Foxes of the Mississippi, parties to this agreement, are anxious that all the members of their tribe shall participate in the advantages herein provided for respecting their improvement and civilization, and to that end to induce all that are now separated to rejoin and reunite with them. It is therefore agreed that, as soon as practicable, the Commissioner of Indian Affairs shall cause the necessary proceedings to be adopted to have them notified of this agreement and its advantages, and to induce them to come in and unite with their brethren; and to enable them to do so, and to sustain themselves for a reasonable time thereafter, such assistance shall be provided for them at the expense of the tribe as may be actually necessary for that purpose: *Provided, however,* That those who do not rejoin and permanently reunite themselves with the tribe within one year from the date of the ratification of this treaty shall not be entitled to the benefit of any of its stipulations.

ARTICLE 8. All the expenses connected with and incident to the making of this agreement, and the carrying out its provisions, shall be defrayed out of the funds of the Sacs and Foxes of the Mississippi.

ARTICLE 9. It is agreed that all roads and highways laid out by authority of law shall have right of way through the lands within the reservation hereinbefore specified, on the same terms as are provided by law when roads and highways are made through lands of citizens of the United States; and railroad companies, when the lines pass through the lands of said Indians, shall have right of way on the payment of a just compensation therefor in money.

ARTICLE 10. The Sacs and Foxes of the Mississippi being anxious to make some suitable provision for their mixed and half-bloods, and such of their women (whole-bloods) who have intermarried with white men, it is agreed that there shall be assigned to the mixed and half-bloods of their tribe, and to such whole-blood females as have intermarried with white men at the date of this agreement, three hundred and twenty acres each; the location and allotments of said lands to be made out of that portion relinquished by this treaty to the United States in trust, provided the mixed or half-bloods and such females of their tribes as have intermarried with white men desire to do so. The allotments to such of the mixed or half-bloods as may be minors to be made by the agent of the tribe, subject to the confirmation and approval of the Secretary of the Interior; and in allotting lands to those provided for in this article, said allotments shall be made so as to include their improvements, (if any,) provided it can be done and at the same time make said allotments conform to the public surveys. And it is further agreed between the parties to this agreement that Thomas Connelly, a half-breed and a member of the tribe, who has been uniformly kind to his people, shall be permitted to so locate his three hundred and twenty acres as to include Randal's dwelling and trading house, if it can be done so as to harmonize with the public surveys; and provided the said Connelly shall pay to the owner of said improvements a fair valuation therefor. The lands granted by this article shall remain inalienable, except to the United States or members of the tribe; nor shall the mixed or half-bloods, or such females as have intermarried with white men, participate in the proceeds of the lands herein ceded.

ARTICLE 11. The United States also agree to cause to be paid to the tribe any funds that may have heretofore been withheld under the provisions of the 5th article of the treaty of 1842, the same to be expended for their benefit or paid in money, as the Secretary may direct.

ARTICLE 12. This instrument shall be obligatory on the contracting parties whenever the same shall be ratified by the President and the Senate of the United States.

In testimony whereof, the said Alfred B. Greenwood, commissioner as aforesaid, and the said chiefs and delegates of the Sacs and Foxes of the Mississippi, have hereunto set their hands and seals at the place and on the day and year hereinbefore written.

ALFRED B. GREENWOOD. [L. S.]

Sacs.

KE-O-KUK,	his x mark.	[L. S.]
MACK-AH-SAH-PEE,	his x mark.	[L. S.]
SHAW-PAH-CAW,	his x mark.	[L. S.]
MAT-TAH-TAH,	his x mark.	[L. S.]
MY-AH-PIT,	his x mark.	[L. S.]
KAW-AH-KEE,	his x mark.	[L. S.]

Foxes.

KA-SHA-MAH-ME,	his x mark.	[L. S.]
MAW-ME-WONE-CAH,	his x mark.	[L. S.]
CHE-CO-SKUK,	his x mark.	[L. S.]

In presence of—

PERREY FULLER, *U. S. Agent.*

THOS. J. CONNOLLY, *U. S. Interpreter.*

G. BAILEY, *Secretary to Comm'r.*

J. M. LUCE.

H. S. RANDALL.

JOHN GOODELL.

And whereas, the said treaty having been submitted to the Senate of the United States for its constitutional action thereon the Senate did, on the twenty-seventh day of June, eighteen hundred and sixty, advise and consent to the ratification of the same, by a resolution in the words and figures following, to wit :

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES,

June 27, 1860.

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 the Sac and Fox agency, in the Territory of Kansas, on the first day of October, eighteen hundred and fifty-nine, by and between Alfred B. Greenwood, commissioner on the part of the United States, and certain chiefs and headmen representing the confederated tribes of Sacs and Foxes of the Mississippi.

Attest :

ASBURY DICKINS, *Secretary.*

Now, therefore, be it known that I, James Buchanan, President of the United States of America, do, in pursuance of the advice and consent of the Senate as expressed in the resolution of the twenty-seventh day of June, eighteen hundred and sixty, accept, ratify and confirm said treaty.

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

Done at the city of Washington, this ninth day of July, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States of America the eighty-fifth.

[L. s.]

JAMES BUCHANAN.

By the President:

WM. HENRY TRESNOT, *Acting Secretary of State.*

This agreement, made and entered into on this thirty-first day of August, A. D. 1866, between James Harlan, Secretary of the Interior, for and on behalf of the United States of America, of the first part, and the Missouri River Railroad Company, a corporation existing in the State of Kansas, by the laws thereof, of the second part, witnesseth:

Whereas, by the second article of the treaty concluded at the Delaware agency, Kansas, on the fourth day of July, last past, between said United States and the Delaware tribe of Indians, it is provided "That the Secretary of the Interior shall be and is authorized to sell to said Missouri River Railroad Company, or to other responsible party or parties, in a body, all the remaining part of said reservation, being the lands conveyed to said Delaware Indians in pursuance of the provisions of the supplemental treaty of September 24, 1859, and all other lands owned by the said tribe in the State of Kansas not previously disposed of, except as hereinafter provided, for a price not less than two dollars and fifty cents per acre, exclusive of improvements;" and,

Whereas said Secretary, within thirty days after the ratification of said treaty, gave the notice required by the seventh article thereof to said company; and,

Whereas, within twenty days after receiving said notice, said company elected to make the purchase of said lands at two dollars and fifty cents per acre, without improvements, by filing with the said Secretary their bond, with approved security in double the amount proposed to be paid by them for the whole of said lands, and guaranteeing that they would purchase all of the lands to be sold under the provisions of said treaty, and that they would pay for them in accordance with the terms thereof; and,

Whereas said company did, by resolution, authorize and direct Leonard T. Smith, president of said company, to file said bond, and to do such other acts as may be necessary to secure said lands, as by copy of said resolution certified by the secretary and seal of said company, and on file in the Department of the Interior, fully and at large appears; and there being no other offer for said lands:

Now, therefore, said party of the first part, in consideration of the premises and of the sums of money hereinafter mentioned, to be paid by said party of the second part, does hereby agree to sell to party of the second part all lands provided to be sold by said treaty at and for the sum of two dollars and fifty cents per acre, exclusive of improvements, and subject to all the terms, exceptions, conditions, and limitations in said treaty mentioned; and said party of the second part, in consideration of the premises, doth hereby agree to pay within sixty days from the date of these presents to the Secretary of the Interior, in trust for the Delawares, in lawful money of the United States, the price and value of all the unallotted lands whereof mention is made in said treaty, at the rate of two dollars and fifty cents per acre, and also the appraised value of the improvements thereon, to be ascertained in the mode provided for in said treaty, excepting therefrom the mill reservation and the quarter-sections upon which the council-house and blacksmiths' shops are built, the use of which shall be retained until the final removal of the Delawares, and for which pay-

ment shall not be required from the said party of the second part until possession is delivered, and from time to time thereafter as often as the Secretary of the Interior shall notify the said party of the second part that ten thousand acres or more of said lands have been vacated by said Indians. Within three months thereafter, said party of the second part agrees to pay to the Secretary of the Interior, in trust for the said Indians, the price for the said lands so vacated, at the rate of two dollars and fifty cents per acre thereof, and also the appraised value of the improvements, and so on until all are paid for according to the true intent and meaning of said treaty; and as land shall be paid for, patents therefor, conveying the same in fee simple, shall be, from time to time, issued to said party of the second part or its assigns by the President of the United States.

In witness whereof, said James Harlan, Secretary as aforesaid, hereunto sets his hand and the seal of said department; and the said Leonard T. Smith, president of the said Missouri River Railroad Company, and on behalf of said company, and in pursuance of the power upon him thereunto conferred, sets his hand and seal, on the day and year first aforesaid.

[SEAL.]

JAMES HARLAN,
Secretary of the Interior.

[SEAL.]

LEONARD T. SMITH,
President Missouri River Railroad Company.

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