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Cherokee Indian lands in Indian Territory. Message from the President of the United States, transmitting a communication from the Secretary of the Interior relative to the claim of the Cherokee Indians for certain lands in the Indian Territory

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1883-16

CHEROKEE INDIAN LANDS IN INDIAN TERRITORY.

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior relative to the claim of the Cherokee Indians for certain lands in the Indian Territory.

JANUARY 20, 1883.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication, dated the 18th instant, from the Secretary of the Interior, with accompanying papers, in relation to the request of the Cherokee Indians, in the Indian Territory, for payment for lands in that Territory west of the 96th degree west longitude, the cession of which to the United States, for the settlement of friendly Indians thereon, is provided for in the sixteenth article of the treaty of July 19, 1866.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
January 20, 1883.

DEPARTMENT OF THE INTERIOR,
Washington, January 18, 1883.

SIR: I have the honor to submit herewith two communications, dated respectively the 4th and 5th instant, addressed to this department by Messrs. Wolfe and Ross, Cherokee delegates, and Hon. W. A. Phillips, special agent and counsel for the Cherokee Nation of Indians, each of which are in relation to the lands west of 96° west longitude, in the Indian Territory, covered by the sixteenth article of the Cherokee treaty of July 19, 1866 (14 Stat., 804).

These communications present separate propositions for the payment of moneys claimed to be due the Cherokees for lands already taken by the United States for the settlement of friendly Indians thereon, under the provisions of the said article of the treaty of 1866, and for the sale of the remainder of the lands not yet so occupied to the United States.

For all of the lands so taken and upon which friendly Indians have been settled, viz, 551,732.44 acres, the charge of \$1.25 per acre is made, amounting to \$689,665.55, against which credits of sums already appropriated and placed to the credit of the Cherokee Nation, on account of such lands, are given, amounting in all to \$348,389.46, leaving a balance of \$341,276.09.

Claim is also made for interest at five per centum per annum, from the respective dates the tribes occupied the lands, crediting the United States with interest on the payments made.

As to the other lands west of the 96° the following is suggested by the delegates and counsel, viz :

We are prepared to meet any fair proposition for the disposal of all west of 96°, or for all west of the 98° or west of the Indian settlements, or for the location of other small tribes in the eastern portion, but would point out the necessity of an immediate settlement for those occupied treats under the authority we have received. We think it better that these two propositions be considered separately, and ask a favorable recommendation from you to Congress on the subject.

A full history of these lands, the action taken for occupancy of a portion thereof under treaty stipulations, a statement of moneys already paid therefor and the claims heretofore made by the Cherokee Nation in the premises, will be found in H. Ex. Doc. No. 89, Forty-Seventh Congress, first session, a copy of which is herewith furnished.

On page 30 of that document will be found a report of Mr. Secretary Schurz of June 21, 1879, submitting the matter of these lands to the President, with recommendation that the price of the lands be fixed by him under the laws for that purpose made and provided.

The following is the order of the President, on the subject, a copy of which is found on page 31 of the House Ex. Doc. No. 89 :

The action of the Secretary of the Interior, as conveyed to me by letter dated the 19th instant, in appraising and fixing the value of certain lands ceded by the Cherokee Indians to the United States to be used in the settlement of friendly Indians, as follows :

Lands lying west of 96° west longitude in Indian Territory, set apart under act of April 10, 1876 (19 Stat., 29), as a portion of the reservation for the Pawnee Indians, embracing an area of 230,014.04 acres, at 70 cents per acre.

All other lands ceded by the Cherokees in the treaty of 1866, article 16 (14 Stat., 304), embracing an area of 6,344,562.01 acres, at 47.49 cents per acre, is hereby approved and ratified as my act under the act of May 29, 1872.

R. B. HAYES.

EXECUTIVE MANSION, June 23, 1879.

The valuation of the lands in the Indian Territory west of 96° west longitude, already taken for the settlement of friendly Indians thereon, as provided in the treaty, having thus been fixed by the President as the price to be paid therefor by the United States, and he also having fixed the price to be paid for the balance of the lands in said Indian Territory west of 90° west longitude which may be so taken and occupied, I am of opinion that it will be to the interest of the Cherokee Indians, as well as to the interest of the United States, and will settle many questions growing out of this matter, which have been and are now very troublesome and annoying, if an appropriation were made by the Congress in a sum sufficient to pay the Cherokee Nation for the whole body of land in question, at the price above fixed by the President, less the sums already appropriated as above shown and applied in payment for a part of said lands.

The sum necessary to be appropriated for this purpose under the foregoing recommendation is shown by the following statement, based on

calculations contained in the report of the Commissioner of Indian Affairs of February 17, 1882 (page 33 of Ex. Doc. No. 89, H. R.), viz :

6,344,572.51 acres, at 47.49 cents per acre	\$3, 013, 037 48
230,014.04 acres, at 70 cents per acre.....	161, 009 83
	3, 174, 047 31
Less amount already appropriated and applied in payment for a part of said land, as shown above.....	348, 389 46
	2, 825, 657 85

which is the amount required to be appropriated.

I respectfully recommend that the matter have your favorable consideration and be brought to the attention of the Congress for its consideration and action.

I have the honor to be, sir, very respectfully, your obedient servant,
 H. M. TELLER,
Secretary.

The PRESIDENT.

WASHINGTON, D. C., *January 4, 1883.*

SIR : Among other duties assigned to us by the legislature of the Cherokee Nation, we are authorized to bring to some final adjustment and disposition our lands west of the Arkansas River. We are also specially directed as follows :

"The said delegation are hereby instructed and empowered to agree to and receive for such lands, upon which friendly Indians have already been located, what will be a fair and equitable price for such lands, and not less than \$1.25 per acre.

"*Be it further enacted,* That on the payment of such sum, as agreed upon by the said delegation and the United States, to the treasurer of the Cherokee Nation, as other moneys are paid, the said delegation shall, in the name of the Cherokee Nation, execute a deed of conveyance or relinquishment of such tracts to the United States in trust for the benefit of the Indians occupying and located upon said lands."

We need hardly urge upon you the necessity of coming to some settlement, in so far as it concerns the Poncas, Pawnees, Nez Percés, Otoes, Missourias, and the section or sections occupied for school purposes. None of those locations were made in conformity with the Cherokee treaty of 1866, and all of them in violation of its provisions. Had the lands in question been public lands or domain acquired by the government, an Executive order locating them there or an act would have been entirely competent. Those lands were, however, the property of the Cherokee Nation, conveyed to them by the United States. They were never ceded on trust. The United States merely acquired a right to settle Indians therein on conforming to the treaty.

Fifteen years ago every acre of these lands was set apart for the use of the Arapahoes, Cheyennes, Kiowas, and Comanches. No steps were taken to comply with the treaty. The act of Congress of 1872, on the recommendation of Commissioner Francis Walker, authorizing the appraisement by the President, was to secure payment for them, as those tribes had no money. The Commissioner's recommendation that the act be submitted to the Cherokee Nation was disregarded. The request of the Cherokee Nation to appoint one appraiser was refused. The whole action was entirely arbitrary, and neither did nor could convey the property of other people. The Executive would not permit either of these to settle on it. Subsequently small picked tracts of valuable timbered and watered lands had Indians put on them in violation of the treaty. The only payments made were part payments upon the whole tract. The government does not propose to settle other Indians on any considerable portion of it : hence, a settlement of the valuable portion taken has become indispensable, in order to secure title to those tribes before squatters attempt to invade them.

At a valuation by any fair commission these tracts would be appraised at from \$3 to \$5 per acre. If we could dispose of them to other parties we could get more than that. For the lands lying west of 98°, upwards of 4,000,000 acres, we have been offered \$1 per acre in bulk for grazing purposes, and the western end is the least valuable, and such purchase would not be for picked tracts along the streams, as in the case of these small tribes, but the whole area, including the high grazing lands some distance from water.

We are prepared to meet any fair proposition for the disposal of all west of 96° or for all west of 98°, or west of the Indian settlements, or for the location of other small

tribes in the eastern portion, but would point out the necessity of an immediate settlement for these occupied tracts under the authority we have received. We think it better that these two propositions be considered separately, and ask a favorable recommendation from you to Congress on the subject.

We are, very respectfully,

R. M. WOLFE,
ROBERT B. ROSS,
Cherokee Delegation.
WM. A. PHILLIPS,
Special Agent and Counsel.

Hon. H. M. TELLER,
Secretary of the Interior.

WASHINGTON, D. C., *January 5, 1883.*

SIR: Having received full authority from the legislature of the Cherokee Nation to dispose of our lands west of 96°, and convey in trust to the United States, and being specifically required to adjust accounts for tracts already occupied, copy of which we transmit, we submit the account for occupied tracts as it stands.

United States to Cherokee Nation, debtor.

To lands taken for Poncas, 101,894.31 acres, at \$1.25 per acre	\$127,367 88 $\frac{1}{2}$
To lands taken for Pawnees, 230,014.04 acres, at \$1.25 per acre	287,517 55
To lands taken for Nes Percés, 90,710.89 acres, at \$1.25 per acre.....	113,388 61 $\frac{1}{4}$
To lands taken for Otoes and Missourias, 129,113.20, at \$1.25 per acre....	161,391 50

Total number of acres, 551,732.44; total amount..... 689,665 55

TOTAL CREDITS.

June 21, 1880. Amount received by deficiency bill.....	\$300,000 0
Sept. 15, 1881. Amount placed to credit of Cherokee Nation.....	48,389 46

Total payments on account

348,389 46

Balance due on said tracts..... 341,276 09

To this should be added five per cent. interest from the respective dates these tribes occupied the lands, crediting the United States with interest on payments made. Upon such settlement we are prepared to make deeds of relinquishment, and will include conveyance for the Indian school selection.

We desire to state that if these terms are not accepted at the present time, we will not hereafter deem the Cherokee Nation bound by them. The lands in question are valuable, worth not less than four or five dollars per acre, but we are authorized at the present time to make this settlement as submitted above.

Very respectfully,

R. M. WOLFE.
ROBERT B. ROSS,
Cherokee Delegation.
WM. A. PHILLIPS,
Special Agent and Counsel.

Hon. H. M. TELLER,
Secretary of the Interior.

[House Ex. Doc. No. 89, Forty-seventh Congress, first session.]

Message from the President of the United States, transmitting a communication from the Secretary of the Interior, in relation to the claim of the Cherokee Indians for certain lands placed at the disposal of the United States for the settlement of friendly Indians.

MARCH 2, 1882.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication, dated the 28th February, 1882, from the Secretary of the Interior, with accompanying papers, in relation to the request of the

Cherokee Indians in Indian Territory for payment for lands belonging to them in said Territory, ceded to the United States by the 16th article of their treaty of July 19, 1866, for the settlement of friendly Indians.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *March 1, 1882.*

DEPARTMENT OF THE INTERIOR,
Washington, February 28, 1882.

SIR: I have the honor to forward herewith a communication, dated January 11, 1882, from Daniel H. Ross and R. W. Wolf, delegates, and Hon. W. A. Phillips, special agent of the Cherokee Nation of Indians, touching a sum of money claimed to be due the nation for certain lands placed by the nation at the disposal of the United States for the settlement of friendly Indians, and the price for which is claimed to be now due and payable.

I also inclose the following papers, which, in connection with the treaty of July 19, 1866, and other treaties and certain acts of Congress named below, contain all the information in this department bearing upon the subject, namely:

List of papers herewith.

- A. Copy of Executive order creating Cheyenne and Arapahoe Reservations, August 10, 1869.
- B. Copy of letter of Commissioner of Indian Affairs Walker, February 16, 1872.
- C. Copy of House Ex. Doc. No. 43, Forty-second Congress, third session.
- D. Copy of Senate Ex. Doc. No. 69, Forty-fifth Congress, second session.
- E. Copy of letter of Department of Interior to the President, June 21, 1879.
- F. Copy of Executive order fixing price of Cherokee lands, June 23, 1879.
- G. Copy of letter of Cherokee delegation and attorney, January 11, 1882.
- H. Copy of letter of Commissioner of General Land Office, February 3, 1882.
- I. Copy of letter of Commissioner of Indian Affairs, February 7, 1882.
- K. Copy of letter of Commissioner of Indian Affairs, February 17, 1882.
- References in letter of Commissioner of Indian Affairs of February 17, 1882, herewith, and in this communication to treaties, acts, &c.
- Treaty between Spain and the United States, February 22, 1819, 8 Stat., 252.
- Treaty between Mexico and the United States, January 12, 1828, 8 Stat., 372.
- Section 3, act of May 28, 1830, 4 Stat., 412.
- Article 1, Cherokee treaty, February 14, 1833, 7 Stat., 415.
- Cherokee treaty, December 29, 1835, 7 Stat., 478.
- Article 2, Kiowa and Comanche treaty, 1865, 14 Stat., 718.
- Article 16, Cherokee treaty, July 19, 1866, 14 Stat., 804.
- Article 2, Kiowa and Comanche treaty, 1867, 15 Stat., 582.
- Cheyenne and Arapahoe treaty, August 19, 1868, 15 Stat., 593.
- Act June 5, 1872, 17 Stat., 228.
- Case, *Holden vs. Joy*, 17 Peters, 250.
- Case, *United States vs. Ben Reese*, 5 Dillon, 105.
- Section 5, act May 29, 1872, 17 Stat., 190.
- Act April 10, 1876, 19 Stat., 28.
- Senate Report No. 708, page 2, Forty-sixth Congress, second session.
- Act July 31, 1876, sundry civil appropriation, 19 Stat., 120.
- Act June 16, 1880, 21 Stat., 248.
- Act March 3, 1881 (sale Otoe lands), 21 Stat., 280.
- Act March 3 1881 (deficiency), 21 Stat., 422.

•This subject is not without difficulty; but, it seems to me, under the sixteenth article of the treaty of July 19, 1866, the Cherokees are not entitled to present payment for *all* of the lands ceded to the United States by the sixteenth article of that treaty. All the provisions of that treaty relating to the cession of the Cherokee lands west of 96° show that the purpose of the United States in procuring the cession, and of the Cherokees in making it, was to enable the United States to settle on the lands thereby ceded other "friendly Indians," giving to each friendly Indian of each tribe thus settled a certain quantity of land to be "taken in a compact form," with "boundaries to be distinctly marked," the land to be "conveyed in fee simple," and to be held by the tribes thus settled thereon either in common or in severalty as the United States may decide.

The same article of the treaty further provides that the lands "thus disposed of" should "be paid for to the Cherokees at such price as should be agreed upon between the parties in interest (the Cherokees and the tribes thus settled), subject to the ap-

approval of the President, and if they should not agree, then the price was to be fixed by the President"; the Cherokee Nation to retain the right of possession of and jurisdiction over all of said country west of 96° of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.

These provisions show, among other things, that it was contemplated by both the United States and the Cherokees that the tribes of friendly Indians to be settled by the United States on the ceded lands should themselves pay the Cherokees therefor, but it so happened that the United States settled on these lands certain tribes of friendly Indians who were too poor to pay for the lands whereon they were thus settled, and in good conscience the United States were bound to pay the Cherokees therefor, and out of this condition of things and what followed arises the difficulty surrounding this subject.

The attention of Congress was called to the matter, and on May 9, 1872 (17 Stat., 190, sec. 5), an act was passed authorizing the appraisal of all the lands west of the ninety-sixth meridian of west longitude, and west of the land of the Osage Indians in the Indian Territory, and south of the southern line of the State of Kansas, ceded to the United States by the Cherokee Indians under their treaty of July 19, 1866, for the settlement of friendly Indians; not only the land occupied by friendly Indians, but that not so occupied; but the act did not contain any provision for the expenses of appraisal, and, of course, nothing was done. Afterwards, under date of July 31, 1876 (19 Stat., 120), a clause was inserted in the sundry civil appropriation act providing for the expenses of a commission to be appointed to make said appraisal, and on the 30th of January, 1877, the Secretary of the Interior appointed a commission to make the appraisal. The commission reported August 22, and December 12, 1877, and on June 23, 1879, the President, acting upon advice of the Secretary of the Interior in letter from the department of June 21, 1879, fixed the price of all the lands outside of those occupied by the Osage and Kansas or Kaw tribes of Indians at 47.49 cents per acre, except that portion occupied by the Pawnees, which was fixed at 70 cents.

The appraisal of all the ceded land, except that occupied by the Osage, Kansas, and Pawnee tribes of Indians, at 47.49 cents per acre, is, in my judgment, fair and just. The Cherokees do not, as I understand it, complain that it is not so. Their complaint arises from another cause. It is a fact well known to persons acquainted with the ceded lands that the eastern portion thereof, including that occupied by the Osages, Kansas, Pawnees, Poncas, Nez Percés, Missourians, is much more valuable than the western portion. The former is well adapted to farming purposes; the latter, by reason of the want of rain, is suitable principally for grazing, and, of course, much less valuable. The United States, in settling tribes of friendly Indians in the ceded lands, has hitherto located them on the eastern and more valuable portion thereof, and the complaint of the Indians is that soon the more valuable portion of these ceded lands (as valuable as that occupied by the Osages) will be occupied, and that the less valuable may remain for many years, or forever, unoccupied and not paid for if the United States shall continue to pay for lands only as they shall be occupied.

I do not think the treaty of October 28, 1867, between the United States and the Cheyennes and Arapahoes, by which was set apart to them a portion of the ceded Cherokee lands, should have much weight in the consideration of this subject. It is true such treaty was made after the date of the treaty of the Cherokees. It is true that under that treaty the United States might have "settled" the Cheyennes and Arapahoes upon, and the Cheyennes and Arapahoes might have "occupied" a portion of the Cherokee ceded lands, but it is also true that the United States did not so settle the Cheyennes and Arapahoes, and that the Cheyennes and Arapahoes did not so occupy, and that they (the Cheyennes and Arapahoes) have, ever since the treaty with them, been and still are "occupying" other lands wholly outside the lands ceded by the Cherokees, and the "possession" and the "jurisdiction" of the Cherokees over the land described in the treaty with the Cheyennes and Arapahoes have not been disturbed thereby. Nor do I think the treaty of 1865 between the United States and the Kiowas and Comanches entitled to much consideration. The United States, by that treaty, undertook to set apart for the Kiowas and Comanches a part of the Cherokee lands to which the United States had then no title, and which the Cherokees at that date owned in fee simple. Of course the Kiowas and Comanches took nothing under that treaty, because the United States had nothing to give. It is true that when in 1866 the treaty was made with the Cherokees by which the United States acquired the right to settle friendly Indians on the lands ceded by the Cherokees, the Kiowas and Comanches might have claimed the right to occupy the lands described in the treaty with them, and the United States would have been compelled to settle them thereon. But the Kiowas and Comanches did not make such claim, and, to the contrary, an arrangement was made with them by the United States under which they were settled upon and occupy lands wholly outside the lands ceded by the Cherokees, so that it is true as to this treaty as well as to that before mentioned

with the Cheyennes and Arapahoës, "the possession" of and "jurisdiction over" these lands by the Cherokees have not been disturbed thereby.

The treaty between the United States and the Kiowas and Comanches, of 1867, was made after the United States had acquired the right to settle other tribes of friendly Indians on the Cherokee ceded lands, but it does not confer on the Kiowas and Comanches any right to "settle upon" or "occupy" any portion of these lands, nor have they in fact so done so far as this department is advised. The right conferred on the Kiowas and Comanches by the treaty of 1867 was merely the right to hunt on a portion of the ceded Cherokee lands, and I have great doubt whether the Kiowas and Comanches took anything as against the right of "possession" and "jurisdiction" reserved to the Cherokees in the treaty of cession. The Cherokees, by that treaty, ceded certain lands to the United States for a specific purpose, to wit, the settlement thereon of other tribes of friendly Indians; and the United States took the lands for that purpose, and can use them for that purpose only, and it may well be questioned whether the right to hunt, disconnected from settlement and occupation, is in accordance with the terms or spirit of the cession.

But the fact remains that the United States has settled several tribes of friendly Indians on the eastern or more valuable portion of the lands ceded by the Cherokees, for which (except in the case of the Osages and others) payment has been made at the average price for all the lands, thus leaving in the "possession" and under the "jurisdiction" of the Cherokees, a large portion of the land, much less valuable than the portion appropriated, and of this the Cherokees complain.

I have endeavored to give a correct statement of the various matters connected with this subject. If anything has been omitted or misunderstood, the omission or misunderstanding will be supplied or corrected by the accompanying papers. I think that in this matter the Cherokees have some cause to complain that they have not been fairly dealt by. I think, also, that their demand for present payment for all the land is not quite reasonable, and that their demand for the payment of interest, as set forth in their communication to me, is extravagant. If the United States should now pay them the appraised value (47.49 cents per acre) for as much land in the extreme western and least valuable part of the cession as has been "occupied" in the eastern and more valuable portion thereof, and so from time to time as other portions of the more valuable lands may be occupied in the future, any just ground for complaint would be removed.

I beg leave in this connection to call special attention to a portion of article 16 of the treaty with the Cherokees of July 19, 1866. It is provided therein that lands "settled" and "occupied" by tribes of friendly Indians shall be "taken in compact form in quantity not exceeding one hundred and sixty acres for each member of each of said tribes thus to be settled, the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee simple to each of said tribes, to be held in common, or by their members in severalty, as the United States may decide."

The following tribes, namely, the Osages, Poncas, Pawnees, Nez Percés, and Otoes and Missourias, have been settled upon and are now occupying several districts of these ceded lands. The boundaries of these districts are all duly marked and known, and their areas have all been surveyed; but no patents have ever been issued to any of the tribes, or members of the tribes, occupying these ceded lands.

The patents, the issuance of which is required in the section of the treaty above cited, should, but cannot, be issued until Congress shall have decided whether they shall issue to the respective tribes, or to the individual members of the tribes in severalty. It would, in my judgment, be advisable to cause patents to issue to the several tribes that have been settled on these lands, containing a clause authorizing individuals of the tribes to take in severalty the quantity of land provided in the treaty for each, and to receive patents therefor that shall override the tribal patent, and separate the individual parcel from the common holding, if that can be done under the terms of the treaty.

I entertain considerable doubt whether the terms of the treaty of July 19, 1866, with the Cherokees gives to the United States a complete legal title to the lands "settled" upon and "occupied" by the tribes of friendly Indians, and I suggest that it would be well for Congress to make some provision for acquiring the legal title (subject to the uses and purposes defined in the treaty) of all lands settled upon and occupied, or that may be settled upon and occupied by friendly Indians, as well as such as may be paid for, for such uses and purposes before settlement and occupancy, in case Congress shall determine to make payment for any such.

I have the honor to be, sir, very respectfully, your obedient servant,

S. J. KIRKWOOD,

Secretary.

The PRESIDENT.

A.

*Cheyenne and Arapahoe Reserve.*DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

June 19, 1889.

SIR: I have the honor to acknowledge the receipt, by reference from the Secretary of the Interior on the 10th instant, of a letter from Adjutant-General E. D. Townsend, bearing date the 9th instant, inclosing a copy of a telegram dated Fort Leavenworth, Kans., June 8, 1869, from Maj. Gen. J. M. Schofield to General W. T. Sherman, recommending that the reservation for the Arapahoe Indians be changed from its present location to the North Fork of the Canadian River, and requesting a report thereon from this office.

By the terms of the treaty with the Cheyenne and Arapahoe tribes of Indians, proclaimed August 19, 1868, it is provided in the second article thereof that "the United States agrees that the following district of country, to wit: Commencing at the point where the Arkansas River crosses the thirty-seventh parallel of north latitude; thence west on said parallel—the said line being the southern boundary of the State of Kansas—to the Cimarron River (sometimes called the Red Fork of the Arkansas River); thence down said Cimarron River, in the middle of the main channel thereof, to the Arkansas River; thence up the Arkansas River, in the middle of the main channel thereof, to the place of beginning, shall be, and the same is hereby, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them."

It will be seen from the language of the second article of said treaty, just quoted, that a reservation upon which they are now located has already been provided for said Indians within the boundaries in said article designated, but I am of opinion that it would be better for both the Indians and the government if they were to be removed to the North Fork of the Canadian River in accordance with the suggestions of General Schofield, provided any authority can be found for removing and locating said Indians in the manner contemplated.

Should you be of opinion that such authority exists, and determine in pursuance thereof to cause a removal of said Indians to be made from their present reservation, I would suggest that a tract of country be set aside for their occupation and use bounded as follows, viz: Commencing at the point where the Washita River crosses the ninety-eighth degree of west longitude; thence north on a line with said ninety-eighth degree to the point where it is crossed by the Red Fork of the Arkansas (sometimes called the Cimarron River); thence up said river, in the middle of the main channel thereof, to the north boundary of the country ceded to the United States by the treaty of June 14, 1866, with the Creek Nation of Indians; thence west on said north boundary and the north boundary of the country ceded to the United States by the treaty of March 21, 1861, with the Seminole Indians, to the one hundredth degree of west longitude; thence south on the line of said one hundredth degree to the north boundary of the country set apart for the Kiowas and Comanches by the second article of the treaty concluded October 21, 1867, with said tribes; thence east along said boundary to the point where it strikes the Washita River; thence down said Washita River, in the middle of the main channel thereof, to the place of beginning.

The territory comprised within the boundaries last above designated contains a small portion of the country ceded to the United States by the terms of the treaty with the Creek Indians concluded June 14, 1866; a portion of the country ceded to the United States by the terms of the treaty with the Seminole Indians concluded March 21, 1866, and the remainder is composed of a portion of what is commonly known as the "leased country."

Inasmuch as this office has no information upon the subject, except that conveyed by the telegram of General Schofield, which is very meager and indefinite, I am unable to determine the causes which seem to require this change, and I would therefore respectfully suggest, unless there is some pressing necessity which will admit of no delay, whether it would not be well to refer the matter to the proper officers of this bureau for investigation and report before any action is taken.

The letter of Adjutant-General Townsend, together with the copy of the telegram of General Schofield, are herewith returned.

Very respectfully, &c.,

E. S. PARKER,
*Commissioner.*Hon. W. T. OTTO,
Acting Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., August 10, 1869.

SIR: Referring to my report to you of the 19th of June last, relative to the change of location of the reservation for the Cheyenne and Arapahoe Indians, I now have the honor to submit, herewith, copies of the following letters relative to this subject, viz:

Letter from Superintendent Hoag, dated the 31st ultimo, inclosing letter from Brevet Major-General Hazen, dated the 24th ultimo.

Letter from Superintendent Hoag, dated the 4th instant, inclosing letter from General Hazen, dated the 2d instant.

It appears from these letters that the Cheyennes and Arapahoes did not understand the location of the reservation as defined by the treaty of August 19, 1868; that they have never been upon said reserve, and do not desire to go there, but that they desire to locate on the North Fork of the Canadian some 60 miles below Camp Supply; that the agent for these tribes has a large quantity of valuable stores in this locality, which are very much exposed.

Inasmuch as these Indians express a desire to be located upon a reserve, I think it very desirable that their wishes should be gratified, and that they be not permitted to again roam on the plains. I therefore respectfully recommend that the President be requested to authorize the location of these Indians on the North Fork of the Canadian River, where they desire to go, and that immediate steps be taken to provide temporarily for them there. The country desired by them is public land, and I think it competent for the President to direct their location thereon. In view, however, of the fact that these Indians have a reservation defined for them by treaty stipulation, legislation can be asked of Congress at the coming session to insure a permanent reservation for them where they may locate, and abandon as a reservation the present one, restoring it to the public lands.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

Hon. J. D. COX,
Secretary of the Interior.

AUGUST 10, 1869.

The recommendation of the Indian Commissioner approved.

J. D. COX,
Secretary.

Approved August 10, 1869.

U. S. GRANT,
President.

B.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
February 16, 1872.

SIR: I have the honor to call your attention to the following:

It is provided by the 16th article of the treaty concluded with the Cherokee Nation of Indians, July 19, 1866, that the "United States may settle friendly Indians in any part of the Cherokee country west of 90°, to be taken in a compact form in quantity not exceeding one hundred and sixty acres for each member of each of said tribes thus to be settled; the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee simple to each of said tribes, to be held in common or by their members in severalty, as the United States may decide.

"Said lands thus disposed of to be paid for to the Cherokee Nation at such price as may be agreed on between the said parties in interest, subject to the approval of the President, and if they should not agree, then the price to be fixed by the President."

Pursuant to the foregoing treaty provision, an agreement was concluded by which a tract of said country containing five hundred and sixty thousand acres was set apart for the use and occupation of the Osages as a future home.

The Osages and Cherokees being unable to agree upon the consideration to be paid to the latter by the former for said tract of country, the President, in accordance with the treaty provision aforesaid, on the 27th day of May, 1871, fixed the price so to be paid at fifty cents per acre, but owing to the delay necessarily imposed in defining the boundaries of the tract until the survey of the 96th meridian should be completed and the difficulty in regard to location in consequence of such survey, payment of the price fixed has not yet been made.

By the terms of a treaty concluded October 28, 1867, with the Cheyenne and Arapa-

hoe tribes of Indians, a portion of said Cherokee country west of 96th degree west longitude covering 4,300,000 acres, more or less, was assigned to and set apart as a reservation for said tribes. The United States having received these lands from the Cherokees and transferred them under the treaty provision recited to the Cheyennes and Arapahoos, are of course responsible for the payment to the Cherokees of the sums properly to be paid on account of these lands. The Cheyennes and Arapahoos are entirely destitute, dependent upon the government in the main for subsistence, and have no tribal fund or possible means out of which payment could be made for the tract of country thus set aside for them; nor has the price to be paid for such lands at any time been fixed either by agreement between the Cherokees on the one part and the Cheyennes and Arapahoos on the other, or by Executive order, as provided in said treaty.

In view of these facts and treaty stipulations, I should deem it my duty to recommend that the President be requested to proceed to fix and determine the price to be paid for these lands, but that I regard it as highly desirable, both in the interest of economy and on other grounds, that the entire tract thus ceded by the Cherokees in the treaty of 1866, excepting only that portion upon which the Osages have been located, and from which the price to be paid has been determined by the President, as before cited, should be appraised at the same time with the lands ceded by the Cheyennes and Arapahoos, and without awaiting the actual settlements thereon of other friendly tribes as contemplated in the treaty.

I have therefore the honor to recommend that Congress be asked to pass an act authorizing the President, upon the expression of assent to such action by the council of the Cherokee Nation, to proceed to fix the price of all lands ceded by the Cherokees in the treaty of 1866, excepting such only as have been sold to and occupied by the Osages; provided that the tract set apart as a reservation for the Cheyennes and Arapahoos by the treaty of 1867 shall be separately appraised.

Very respectfully, your obedient servant,

F. A. WALKER,
Commissioner.

To the Honorable SECRETARY OF THE INTERIOR.

C.

[Ex. Doc. No. 43. Forty-second Congress, third session.]

Letter from the Acting Secretary of the Interior, relative to the Southern Cheyennes and Arapahoos, for the release of land ceded to them by second article of treaty of 28th October, 1867.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., December 16, 1872.

SIR: I transmit herewith a copy of a communication dated the 12th instant, from the Commissioner of Indian Affairs, reporting the proceedings had under the 5th section of the act of Congress approved 29th May, 1872, authorizing the Secretary of the Interior to negotiate with Southern Cheyennes and Arapahoos for the release of lands ceded to them by 2d article of treaty of 28th October, 1867 (Statutes at Large, second session Forty-second Congress, p. 190.)

An agreement made with the Arapahoos, in conformity with the requirements of the act above referred to, is inclosed, together with a draft of a joint resolution to confirm said agreement, which is respectfully commended to the favorable consideration of Congress.

Should Congress approve this adjustment with the Arapahoos, negotiations with the Cheyennes will be entered into for their relinquishment of the reservation set apart for them under the treaty of 1867, with a view to locating said tribe in the Indian Territory.

I have the honor to be, very respectfully, your obedient servant,

B. R. COWEN,
Acting Secretary.

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

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., December 12, 1872.

SIR: By the fifth section of the act making appropriation for the Indian service for the year ending June 30, 1873, approved May 29, 1872 (Stats. at Large, vol. 17, p. 190), the Secretary of the Interior was authorized to negotiate with the Southern

Cheyennes and Arapahoos for the relinquishment of their claim to the land ceded to them by the second article of the treaty of October 28, 1867 (Stats. at Large, vol. 15, p. 593), out of the cession made by the Cherokees in their treaty of July 19, 1866 (Stats. at Large, vol. 14, p. 799), such relinquishment, if obtained, to be in consideration of a sufficient and permanent location for said Cheyennes and Arapahoos upon the lands ceded to the United States by the Creeks and Seminoles in the treaties of March 21 and June 14, 1866 (Stats. at Large, vol. 14, pp. 755 and 785), and he was directed to report the action taken by him to Congress.

Negotiations to the end proposed were duly entered into with the Southern Cheyennes and Arapahoos, unitedly, but the Cheyennes were meanwhile frightened away from the place designated for them to meet the commission appointed to counsel with them, owing to the advance from the southwest of the troops under Colonel McKenzie, in his expedition against the Comanches. In the course of such negotiations it became the view of this office that these tribes should no longer be associated in the occupation of a reservation. The Arapahoos are manifesting an increasing disinclination to follow further the fortunes of the Cheyennes, and crave a location of their own. Inasmuch as the conduct of the Arapahoos is uniformly good, and their disposition to make industrial improvements very decided, it is thought that they should now be separated from the more turbulent Cheyennes and given a place where they may carry out their better intentions without interruption, and without the access of influence tending to draw their young men away to folly and mischief. With this view a contract, made subject to the action of Congress, was entered into between the Commissioner of Indian Affairs and the delegation of the Arapahoe tribe which visited Washington during the present season (the delegation being fully empowered thereto by the tribe) by which the Arapahoos relinquished all their interest in the reservation granted them by the treaty of 1867, in consideration of the grant of a reservation between the North Fork of the Canadian River and the Red Fork of the Arkansas River, and extending from a point ten miles east of the ninety-eighth to near the ninety-ninth meridian of west longitude. There can be no question, I think, that the arrangement will be equally for the advantage of the government and of the Indians. I therefore respectfully submit herewith the contract in question, and recommend that the same be laid before Congress, and the necessary legislation requested to carry into effect its provisions.

Should this adjustment of the question, so far as the Arapahoos are concerned, meet the approval of Congress, negotiations will be entered into with the Cheyennes with a view to obtaining their relinquishment of the reservation of 1867, and their location on some vacant tract within the same general section of the Indian Territory.

Very respectfully, your obedient servant,

F. A. WALKER,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

ARTICLES OF AGREEMENT WITH THE CHIEFS AND HEAD-MEN REPRESENTING ARAPAHOE INDIANS.

Articles of agreement made and concluded this twenty-fourth day of October, A. D. 1872, at Washington, D. C., by and between the United States of America, represented by Francis A. Walker, Commissioner of Indian Affairs, of the one part, and the Arapahoe tribe of Indians, represented by the undersigned, their chiefs and head-men, duly authorized and empowered to act for the tribe, of the other part, witnesseth:

Article first. The said Arapahoe tribe of Indians hereby cede and relinquish to the United States all right, title, and interest in and to the reservation, or to any part thereof, set apart for the said Arapahoos and for the Cheyennes, by the second article of the treaty concluded October 28, 1867, at Medicine Lodge Creek, in the State of Kansas, described as follows, viz: Commencing at the point where the Arkansas River crosses the 37th parallel of north latitude; thence west, on said parallel, the said line being the southern boundary of the State of Kansas, to the Cimarron River (sometimes called the Red Fork of the Arkansas River); thence down said Cimarron River, in the middle of the main channel thereof, to the Arkansas River; thence up the Arkansas River, in the middle of the main channel thereof, to the place of beginning.

Article second. In consideration of the cession and relinquishment embraced in the foregoing article, it is agreed that there shall be set apart for a reservation for the said Arapahoe tribe of Indians, as long as they shall occupy and use the same, a tract of country bounded as follows, to wit: Commencing at a point in the middle of the main channel of the North Fork of the Canadian River, ten miles east of the 98th meridian of west longitude; thence up the middle of the main channel of the said North Fork to a point where the present trail from the Upper Arkansas Indian Agency, so called,

to Camp Supply, crosses the said stream; thence due north to the middle of the main channel of the Red Fork of the Arkansas River; then down the said river, in the middle of the main channel thereof, to a point in said channel ten miles east of the 98th meridian of west longitude; thence south to the place of beginning.

Article third. The said Arapahoes agree to receive among them upon the reservation provided for by the preceding article the Pacer band of Apaches (now confederated with the Kiowas and Comanches), and agree that the members of this band shall be entitled to all the rights and privileges with the members of the Arapahoe tribe.

In testimony whereof, the parties to this agreement hereunto subscribe their names and affix their seals on the day and year first above written, October 24, 1872.

F. A. WALKER,

Party of the First Part.

BIG MOUTH, his x mark.

LEFT HAND, his x mark.

HEAP O' BEARS, his x mark.

WHITE CROW, his x mark.

YELLOW HORSE, his x mark.

BLACK CROW, his x mark.

Chiefs and Head-men representing Arapahoe Tribe, Party of the Second Part.

Witnesses:

HENRY E. ALVORD, *Special Commissioner.*

PHILIP McCUSKER, *Interpreter.*

JOHN POISELL, his x mark, *Interpreter.*

A JOINT RESOLUTION to confirm an agreement made with the Arapahoe tribe of Indians.

Whereas the Secretary of the Interior was authorized by the fifth section of the act of Congress making appropriations for the Indian service for the year ending June thirtieth, one thousand eight hundred and seventy-three, approved May twenty-ninth, one thousand eight hundred and seventy-two, to negotiate with the Southern Cheyennes and Arapahoe tribes of Indians for the relinquishment of their claim to the land ceded to them by the second article of their treaty of October twenty-eight, one thousand eight hundred and sixty-seven, such relinquishment, if obtained, to be in consideration of a sufficient and permanent location for said Indians upon the lands ceded to the United States by the Creeks and Seminoles, in the treaties of March twenty-first and June fourteenth, one thousand eight hundred and sixty-six; and whereas negotiations to the end in view were accordingly had with the Arapahoe tribe of Indians, and an agreement entered into the twenty-fourth day of October, one thousand eight hundred and seventy-two, on behalf of the United States, by Francis A. Walker, Commissioner of Indian Affairs, with Big Mouth, Left Hand, Heap o' Bears, White Crow, Yellow Horse, and Black Crow, chiefs and head-men representing the said Arapahoe tribe of Indians, and fully empowered to act for their tribe, by which said tribe of Indians cede and relinquish to the United States all right, title, and interest in and to the reservation, or to any part thereof, set apart for the said Cheyenne and Arapahoe Indians by the second article of the treaty concluded October twenty-eighth, one thousand eight hundred and sixty-seven, which reservation is described as follows, viz: Commencing at the point where the Arkansas River crosses the thirty-seventh parallel of north latitude; thence west on said parallel, the said line being the southern boundary of the State of Kansas, to the Cimarron River (sometimes called the Red Fork of the Arkansas River); thence down said Cimarron River, in the middle of the main channel thereof, to the Arkansas River; thence up the Arkansas River, in the middle of the main channel thereof, to the place of beginning; and whereas, in consideration of such cession and relinquishment, it is provided in the said agreement that there shall be set apart for a reservation for the said Arapahoe tribe of Indians, as long as they shall use and occupy the same, a tract of country bounded as follows, viz: Commencing at a point in the middle of the main channel of the North Fork of the Canadian River, ten miles east of the ninety-eighth meridian of west longitude; thence up the middle of the main channel of the said North Fork to a point where the present trail from the Upper Arkansas Indian Agency, so called, to Camp Supply, crosses the said stream; thence due north to the middle of the main channel of the Red Fork of the Arkansas; thence down the said river, in the middle of the main channel thereof, to a point in said channel ten miles east of the ninety-eighth meridian of west longitude; thence south to the place of beginning, upon which the Arapahoes agree to receive among them the Pacer band of Apache Indians (now confederated with the Kiowas and Comanches), and to grant to them all the rights and privileges with the members of the Arapahoe tribe: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the aforesaid agreement be, and the same is hereby, confirmed and approved.

D.

[Forty-fifth Congress, second session, S. Mis. Doc. No. 69.]

Letter from the Secretary of the Interior, transmitting a report of a commission appointed in pursuance of law to appraise certain lands in the Indian Territory lying west of the 96th degree of west longitude.

DEPARTMENT OF THE INTERIOR,
Washington, May 9, 1878.

SIR: I have the honor to transmit herewith a copy of a letter addressed to this department, under date 26th ultimo, inclosing copy of a report of a commission appointed under the provisions of the fifth section of the Indian appropriation act of 1876 (17 Stats., 190), and the sundry civil appropriation act of 1876 (19 Stats., p. 120), to appraise certain lands in the Indian Territory lying west of the 96th degree west longitude.

Copies of all inclosures noted in the letter of the Commissioner are also transmitted.

Very respectfully,

C. SCHURZ,
Secretary.

Hon. WM. B. ALLISON,
Chairman Committee on Indian Affairs, United States Senate.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 30, 1877.

SIR: The following-named gentlemen are hereby appointed to appraise the lands ceded to the United States by the Cherokee Indians under their treaty of July 19, 1866, as provided for by the fifth section of the act of Congress approved May 29, 1872:

Thomas P. Kennard, of Lincoln, Nebr.; Enoch H. Topping, of Louisburg, Kans.; Thomas E. Smith, Paola, Kans.

You will please notify these gentlemen of their appointment, and prepare and submit to the department for approval the necessary instructions for their guidance.

Their compensation will be eight dollars per day, each, in addition to their actual expenses.

Very respectfully, your obedient servant,

Z. CHANDLER,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 20, 1877.

SIR: I have examined and returned herewith, approved, the "draft of instructions to commission to appraise Cherokee lands" which accompanied your letter of the 24th instant.

Very respectfully, your obedient servant,

Z. CHANDLER,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 3, 1877.

SIR: Referring to office letter of the 30th of January last, notifying you of your designation as a commissioner, to be associated with Messrs. E. H. Topping, of Louisburg, Kansas, and Thomas P. Kennard, esq., of Lincoln, Nebr., for the purpose of appraising the Cherokee lands in Indian Territory lying west of the ninety-sixth meridian of west longitude and west of the land of the Osage Indians, the following detailed instructions are given for your guidance in the premises, viz:

The commission will meet at Lawrence, Kans., on Wednesday, the 28th instant, or such other time or place as they may determine.

Before entering upon the discharge of your duties each of you will subscribe, before a notary public, to an oath or affirmation to perform the service faithfully and impartially, which oath or affirmation should be forwarded to Washington, to be placed in the files of this office.

The lands to be appraised are located between the Arkansas River and the one hundredth meridian of west longitude, and between the old Creek boundary line (which is an east and west line shown on the maps of Indian Territory forwarded this day to E. H. Topping, esq., in township 20 north, and colored yellow) and Kansas, including the Pawnee Indian reservation established by the fourth section of an act of Congress approved April 10, 1876, copy herewith, to which your attention is specially invited respecting the price to be paid to the Cherokees by the Pawnees, which shall not exceed seventy cents per acre.

By the sixteenth article of the Cherokee treaty of July 19, 1866, the lands to be appraised by you are opened to the settlement of friendly Indians at the rate of 160 acres to each Indian; but owing to the limited appropriation of \$5,000, which amount in no event are you authorized to exceed, for the expenses of the appraisal of so large a tract of country, nearly 300 townships, it will be impracticable for you to make a personal inspection of every section, or even of every township.

It may be desirable, however, to examine and appraise, by townships, all the land lying east of the Indian meridian, and, perhaps, some few townships west of said meridian; but it is believed that much, if not all, of the country west of the Abilene cattle-trail and stage-road from Caldwell, Kans., to the forks of Turkey Creek and Cimarron River, may be cursorily examined, and appraised in larger areas at one price per acre.

In determining the valuation per acre of these lands, you will take into consideration the fact that these are lands for Indian occupancy and settlement only, and, consequently, less valuable than lands open to white settlement.

You are hereby authorized to procure teams, saddles, and conveyances, outfit of tent or tents and camp-equipage, to enable you to make as speedy, efficient, and complete inspection of the country as may be necessary.

You will begin field-work in the northeast corner of the tract, near Arkansas City, Kans., or in the forks of the Arkansas and Cimarron Rivers, near the Pawnee Agency, thence proceed westwardly. I would advise the former as a starting point, inasmuch as you could there procure your teams and outfit and necessary supplies, and enter at once upon the field-work.

You should select some central point for camping for several days, taking with you two attendants, whom you are hereby authorized to employ, one to care for teams and outfit, the other to cook and perform such other duties as you may require, so that each day you may proceed on horseback to view and appraise as many adjacent townships as you can, until all townships or parts of townships approximate to your camps have been appraised, then changing your camp location to some more central point, proceed in like manner until the work is completed.

Mr. Topping has been designated as disbursing agent for the commission, and has been instructed to execute and file a bond, if funds are desired.

A journal of the proceedings of the commission, showing the duty performed each day, should be kept, and transmitted with the accounts of the expedition to this office, when the duties arising under your appointment shall have been completed.

For the assistance of the commission in locating the townships to be appraised, I will, in due time, transmit by Adams Express, to address of commission, care Superintendent Nicholson, Lawrence, Kans., or wherever you may direct, maps of Indian Territory, blank schedules of appraisement, plats showing the townships to be appraised, and field-notes of the exteriors of said townships, all of which you will carefully preserve and return with your final report and appraisal to this office.

Very respectfully, your obedient servant,

J. Q. SMITH,
Commissioner.

THOMAS E. SMITH, Esq.,
Paola, Kans.

Same to Thos. P. Kennard, Lincoln, Nebr., and E. H. Topping, esq., Louisburg, Kans.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, September 8, 1877.

SIR: I have the honor to acknowledge the receipt, by department reference, of communication dated the 25th ultimo, from Thomas P. Kennard to the honorable Secretary of the Interior, resigning his office as member of the board of commissioners to

appraise the Cherokee lands in the Indian Territory, lying west of the 96th meridian of west longitude, and west to the land of the Osage Indians.

I am also in receipt, by the same reference, of letter to the honorable Secretary dated on the 6th instant, from Messrs. R. O. Phillips and others, favorably indorsed by Hon. Frank Welch, recommending the appointment of Hon. William F. Chapin, of Lincoln, Nebr., to succeed Mr. Kennard on said board.

While this office entertains no doubt of the high character and qualifications of Mr. Chapin, yet owing to his remoteness from the lands to be appraised, and the comparatively short time needed to complete the work, it is not deemed advisable to incur the additional expense which his appointment would entail, and for this reason solely his appointment is not recommended in this report.

I have the honor to recommend the acceptance of the resignation of Mr. Kennard, and the appointment of William N. Wilkerson, esq., of Cass County, Missouri, to fill the vacancy on said board, caused by said resignation.

Mr. Wilkerson is known to be a reliable man, and his proximity to the region where the work is to be done makes his appointment advisable.

I respectfully return the two communications hereinbefore referred to, and as the board will meet at Wichita, Kans., on the 15th instant, to complete its work, I have the honor to request early action on this report.

Very respectfully, your obedient servant.

J. Q. SMITH,
Commissioner.

HON. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., September 2, 1877.

SIR: Agreeably to the recommendation of your letter of this date, Mr. William N. Wilkerson, of Cass County, Missouri, is hereby appointed an appraiser of the Cherokee lands in the Indian Territory, to fill the vacancy on said board caused by the resignation of Mr. Kennard.

You will please notify him of his appointment.

The papers accompanying your letter are herewith returned.

Very respectfully,

C. SCHURZ,
Secretary.

THE COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, September 10, 1877.

SIR: I am directed by the honorable Secretary of the Interior to inform you of your appointment as appraiser of Cherokee lands in the Indian Territory, to fill the vacancy on the board caused by the resignation of Thos. P. Kennard.

You will be associated with Thomas E. Smith, esq., of Paola, Kans., and E. H. Topping, esq., of Louisburg, Kans., and your compensation for the duties required by such appointment will be eight dollars per day while actually engaged therein, and your actual expenses.

Should you accept this appointment, you will so notify this office at once, and join the other members of the board at Wichita, Kans., on the 15th instant. In their possession you will find full and detailed instructions relative to such appraisement by which you will be guided.

Before entering upon the discharge of your duties as such appraiser, you will take and subscribe to an oath or affirmation, before a notary public, or other officer having an official seal, to faithfully and impartially perform such duties, which oath or affirmation must be forwarded here to be placed on the files of this office.

Very respectfully,

J. Q. SMITH,
Commissioner.

WILLIAM N. WILKERSON (Care of Thos. E. Smith),
Appraiser of Cherokee Lands, Paola, Kansas.

Articles of agreement made and concluded this twenty-fourth day of October, A. D. 1872, at Washington, D. C., by and between the United States of America, represented by Francis A. Walker, Commissioner of Indian Affairs, of the one part, and the Arapahoe tribe of Indians, represented by the undersigned, their chiefs and headmen, duly authorized and empowered to act for the tribe, of the other part, witnesseth:

ARTICLE 1. The said Arapahoe tribe of Indians hereby cede and relinquish to the United States all right, title, and interest in and to the reservation, or to any part thereof, set apart for the said Arapahoes and for the Cheyennes, by the second article of the treaty concluded October 28, 1867, at Medicine Lodge Creek, in the State of Kansas, described as follows, viz: Commencing at the point where the Arkansas River crosses the 37th parallel of north latitude, thence west on said parallel, the said line being the southern boundary of the State of Kansas, to the Cimarron River, sometimes called the Red Fork of the Arkansas River, thence down the Cimarron River, in the middle of the main channel thereof, to the Arkansas River; thence up the Arkansas River, in the middle of the main channel thereof, to the place of beginning.

ART. 2. In consideration of the cession and relinquishment embraced in the foregoing article, it is agreed that there shall be set apart for a reservation for the said Arapahoe tribe of Indians, as long as they shall occupy and use the same, a tract of country bounded as follows, to wit: Commencing at a point in the middle of the main channel of the North Fork of the Canadian River ten miles east of the 98th meridian of west longitude; thence up the middle of the main channel of the said North Fork to a point where the present trail from the Upper Arkansas Indian agency, so called, to Camp Supply, crosses the said stream; thence due north to the middle of the main channel of the Red Fork of the Arkansas River; thence down the said river in the middle of the main channel thereof to a point in said channel ten miles east of the 98th meridian of west longitude; thence south to the place of beginning.

ART. 3. The said Arapahoes agree to receive among them upon the reservation, provided for by the preceding article, the Pacer band of Apaches (now confederated with the Kiowas and Comanches), and agree that the members of this band shall be entitled to all the rights and privileges with the members of the Arapahoe tribe.

In testimony whereof the parties to this agreement hereunto subscribe their names and affix their seals on the day and year first above written.

F. A. WALKER.

Party of the First Part.

BIG MOUTH, his x mark,
LEFT HAND, his x mark,
HEAP O' BEARS, his x mark,
WHITE CROW, his x mark,
YELLOW HORSE, his x mark,
BLACK CROW, his x mark,

Chiefs and Headmen Representing Arapahoe Tribe, Party of the Second Part.

Witnesses:

HENRY E. ALVORD, *Special Commissioner.*
PHILIP McCUSKER, *Interpreter.*
JOHN POISELL, his x mark, *Interpreter.*

Articles of agreement and convention, made and concluded at the city of Washington this 18th day of November, 1873, by and between Edward P. Smith, Commissioner of Indian Affairs, on the part of the United States, and the undersigned chiefs and headmen, delegates representing the Cheyenne and Arapahoe tribes of Indians. they being thereto duly authorized by the said tribes of Indians, respectively, viz:

ARTICLE I. The Cheyenne and Arapahoe tribes of Indians hereby cede, sell, and relinquish and convey to the United States all their right, title, and interest in and to the lands ceded to them by the second article of treaty October 28, 1867, in the Indian Territory, and included within the following boundaries, viz: Commencing at the point where the Arkansas River crosses the 37th parallel of north latitude: thence west on said parallel, the said line being the southern boundary of the State of Kansas, to the Cimarron River—sometimes called the Red Fork of the Arkansas River; thence down the said Cimarron River in the middle of the channel thereof to the Arkansas River; thence up the Arkansas River in the middle of the main channel thereof to the place of beginning.

ART. II. And the said Indians do further fully and entirely relinquish and convey to the United States any and all right, title, and interest of whatsoever nature the same

may be which they may now have in and to any other lands in the said Territory or elsewhere.

ART. III. In consideration of the foregoing cession, the United States agree to set apart for the future homes of said Cheyenne and Arapahoe tribe of Indians other lands within the Indian Territory, which have this day been selected by said tribes of Indians, and are described in agreements of this date.

ART. IV. This instrument shall be obligatory on the contracting parties as soon as the same shall be ratified by Congress and approved by the President.

In testimony whereof the said Edward P. Smith, Commissioner of Indian Affairs, on behalf of the United States, and the undersigned, chiefs and headmen, delegates of the Cheyenne and Arapahoe tribes of Indians, on behalf of said Indians, parties to this agreement, have hereunto set their hands and affixed their seals at the place and on the day and year first hereinbefore written.

STONE CALF, Ho-ho-nan-muck-si, his x mark.

LITTLE ROBE, Tah-ke-ome, his x mark.

WHIRLWIND, Whir-ne-tash-tun-osht, his x mark.

WHITE HORSE, Who-po-ume, his x mark.

WHITE SHIELD, Who-po-hevest, his x mark.

PAWNEE, Ho-na-eh-te, his x mark.

POWDER FACE, Chathane, his x mark.

YELLOW BEAR, Ni-ah-neche, his x mark.

LITTLE WOLF, Kah-me-na-che, his x mark.

MEDICINE PIPE, Etehenatche, his x mark.

FOOL DOG, Eth-non-a-the, his x mark.

EDWARD P. SMITH,

Commissioner of Indian Affairs.

Witnesses:

H. R. CLUM.

E. C. GUERRIER, *Interpreter.*

MARG. D. MILES, *United States Indian Agent.*

MARGARET MCADAMS, *Interpreter.*

JOHN F. WILLIAMS.

Articles of agreement made and concluded at the city of Washington this eighteenth day of November, eighteen hundred and seventy-three, by and between Edward P. Smith, Commissioner of Indian Affairs, on the part of the United States, and the undersigned chiefs and headmen, delegates in behalf of and representing the Cheyenne tribe of Indians, they being duly authorized by said tribe, viz:

ARTICLE I. In consideration of and in full compensation for the cession made by the Cheyenne and Arapahoe tribes of Indians, in an agreement between said tribes and the United States, made and concluded this day, and in lien thereof, the United States agree to set apart for the absolute use and undisturbed occupation, and as the future home of the Cheyenne tribe of Indians, all the lands in the Indian Territory embraced within the following-described boundaries: Commencing at a point in the middle of the main channel of the Arkansas River, opposite the mouth of the Cimarron River, sometimes called the Red Fork of the Arkansas River; thence up the Arkansas River, in the middle of the main channel thereof, to the Salt Fork of the Arkansas River; thence up the said Salt Fork, in the middle of the main channel thereof, to Medicine Lodge Creek; thence up said creek to the point where it is crossed by the thirty-seventh (37th) parallel of north latitude; thence on said parallel—the said line being the southern boundary of the State of Kansas—to the Cimarron River; thence down the Cimarron River, in the middle of the main channel thereof, to the place of beginning.

ART. II. It is distinctly understood and agreed that any Cheyennes now absent or living north of the Platte River, who may hereafter desire to come and live upon said lands as their future home, shall be permitted to do so upon equal terms and conditions with those Indians hereto assenting.

ART. III. The United States further agree, whenever the Indians of this tribe that are now north shall join those in the Indian Territory, to construct at its own expense, at or near the cattle trail, at such place as the agent may select, where timber and water may be convenient, the following buildings, to wit: an agency building for the residence of the agent, to cost not exceeding three thousand dollars; a school-house or manual-labor building, to cost not exceeding five thousand dollars; a commissary building, for the use of the agent in storing goods belonging to the Indians, to cost not exceeding ten thousand dollars; a saw-mill, to cost not exceeding five thousand dollars; and six other buildings as residences for a physician, carpenter, farmer,

blacksmith, miller, and engineer, each to cost not exceeding two thousand dollars. And also to furnish annually to the Indians the following employés: a physician, at a salary of twelve hundred dollars; a chief clerk, farmer, carpenter, miller, engineer and blacksmith, each at a salary of one thousand dollars, and a commissary clerk, at a salary of eight hundred dollars.

ART. IV. The United States, in order to insure the civilization of the tribe, agree to appropriate, annually, five thousand dollars for the education of said Indians, the expenditure thereof to be made under such rules and regulations as the Commissioner of Indian Affairs shall deem best for their improvement.

ART. V. This instrument shall be obligatory on the contracting parties as soon as the same shall be ratified by Congress and approved by the President.

In testimony whereof the said Edward P. Smith, Commissioner of Indian Affairs, on behalf of the United States, and the undersigned chiefs and headmen, delegates of the Cheyenne tribe of Indians, on behalf of said Indians, parties to this agreement, have herunto set their hands and affixed their seals, at the place and on the day and year hereinbefore written.

STONE CALF, Ho-ho-man-muck-si, his x mark.

LITTLE ROBE, Tah-ke-ome, his x mark.

WHIRLWIND, Whir-ne-tash-tum-asht, his x mark.

WHITE SHIELD, Who-po-hevest, his x mark.

PAWNEE, Hon-a-ehte, his x mark.

WHITE HORSE, Who-po-ume, his x mark.

EDWARD P. SMITH,

Commissioner of Indian Affairs.

Witnesses:

H. R. CLUM.

E. G. GUERRIER, *Interpreter.*

JOHN D. MILES, *United States Indian Agent.*

MARGARET MCADAMS, *Interpreter.*

JOHN F. WILLIAMS.

Articles of agreement made and concluded at the city of Washington, this 18th day of November, 1873, by and between Edward P. Smith, Commissioner of Indian Affairs, on the part of the United States, and the undersigned chiefs and headmen, delegates in behalf of and representing the Arapahoe tribe of Indians, they being thereto duly authorized by the said tribe, viz:

ARTICLE I. In consideration of and in full compensation for the cession made by the Cheyenne and Arapahoe tribes of Indians, in an agreement between said tribes and the United States, made and concluded this day, and in lieu thereof, the United States agree to set apart for the absolute use and undisturbed occupation, and as the future home of the Arapahoe tribe of Indians, all the lands in the Indian Territory embraced within the following-described boundaries: Commencing at a point in the middle of the main channel of the Canadian River, eighteen (18) miles east of the ninety-eighth (98) degree west longitude; thence north to the middle of the main channel of the Cimarron River (sometimes called the Red Fork of the Arkansas River); thence up said Cimarron River, in the middle of the main channel thereof, to the point where it is crossed by the thirty-seventh (37) parallel of north latitude; thence west on said parallel, the said line being the southern boundary of the State of Kansas, to the one-hundredth (100) degree west longitude; thence south on the line of said one hundredth degree to the Canadian River; thence down the middle of the main channel thereof to the place of beginning.

ART. II. It is distinctly understood and agreed that any Arapahoes now absent or living north of the Platte River, who may hereafter desire to come and live upon said lands as their future home, shall be permitted to do so upon equal terms and conditions with those Indians hereto assenting.

ART. III. The United States hereby agree to furnish to the Indians annually the following employés: A physician, at a salary of twelve hundred dollars; a chief clerk, farmer, carpenter, miller, engineer, and a blacksmith, each at a salary of one thousand dollars; and a commissary clerk at a salary of eight hundred dollars.

ART. IV. The United States, in order to insure the civilization of the tribe, agree to appropriate five thousand dollars annually for the education of said Indians, the expenditure thereof to be made under such rules and regulations as the Commissioner of Indian Affairs shall deem best for their improvement.

ART. V. This instrument shall be obligatory on the contracting parties as soon as the same shall be ratified by Congress and approved by the President.

In testimony whereof the said Edward P. Smith, Commissioner of Indian Affairs, on behalf of the United States, and the undersigned chiefs and headmen, delegates of the Arapahoe tribe of Indians, on behalf of said Indians, parties to this agreement,

have hereunto set their hands and affixed their seals at the place and on the day and year hereinabove written.

POWDER FACE, Chathane, his x mark.
 YELLOW BEAR, Ni-ah-ne-che, his x mark.
 LITTLE WOLF, Kah-me-nah-che, his x mark.
 MEDICINE PIPE, Et-che-nat-che, his x mark.
 FOOL DOG, Eth-non-a-the, his x mark.
 EDWARD P. SMITH.

Commissioner of Indian Affairs.

Witnessed by—

H. R. CLUM.

JOHN D. MILES, *United States Indian Agent.*

E. GUERRIER, *Interpreter.*

MARGARET MCADAMS, *Interpreter.*

JOHN F. WILLIAMS.

DEPARTMENT OF THE INTERIOR,
 OFFICE OF INDIAN AFFAIRS,
Washington, April 26, 1878.

SIR: The 16th article of the treaty concluded July 19, 1866, with the Cherokee Indians (14 Stats., p. 804), provides as follows:

“The United States may settle friendly Indians in any part of the Cherokee country west of 96°, to be taken in a compact form, in quantity not exceeding one hundred and sixty acres for each member of each of said tribes thus to be settled; the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee-simple to each of said tribes, to be held in common, or by their members in severalty, as the United States may decide.

“Said lands thus disposed of to be paid for to the Cherokee Nation at such price as may be agreed on between the said parties in interest, subject to the approval of the President, and, if they should not agree, then the price to be fixed by the President.

“The Cherokee Nation to retain the right of possession and of jurisdiction over all of said country west of 96° of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.”

Under the provisions of this article, the United States has settled the Kansas and Osage tribes of Indians upon that portion of said tract of country lying between the 96th degree of west longitude and the Arkansas River.

The 5th section of the Indian appropriation act of May 29, 1872 (17 Stats., p. 190), authorizes the President of the United States and the Secretary of the Interior “to make an appraisement of the Cherokee lands lying west of the ninety-sixth meridian of west longitude, and west of the land of the Osage Indians, in the Indian Territory, and south of the southern line of the State of Kansas, ceded to the United States by the Cherokee Indians under their treaty of July nineteenth, eighteen hundred and sixty-six, for the settlement of friendly Indians, and report the same to Congress: *Provided*, That the Secretary of the Interior be, and he hereby is, authorized to negotiate with the Southern Cheyennes and Arapahoes for the relinquishment of their claim to the land ceded to them by the second article of the treaty of October twenty-eighth, eighteen hundred and sixty-seven, out of the cession made by the Cherokees in the treaty of July nineteenth, eighteen hundred and sixty-six, and relinquishment, if obtained, to be in consideration of a sufficient and permanent location for the said Cheyennes and Arapahoes, upon the land ceded to the United States by the Creeks and Seminoles, in the treaties of March twenty-first and June fourteenth, eighteen hundred and sixty-six, and that the Secretary report the action taken by him, under this provision, to Congress at its next session.” Under the provisions of this legislation negotiations were had by Francis A. Walker, Commissioner of Indian Affairs, with a delegation of Southern Arapahoe Indians, and an agreement entered into on the 24th of October, 1872, whereby they relinquished all their right to the land ceded to them by the 2d article of the treaty of October 28, 1867 (15 Stats., p. 594), and in lieu thereof it was agreed that there should be set apart, as a reservation for them, a tract of country therein described, which embraces a portion of the Cherokee country west of the Cimarron River, as well as Creek and Seminole ceded lands.

Subsequently Commissioner E. P. Smith held negotiations with delegates representing both the Cheyenne and Arapahoe tribes of Indians, and entered into agreements with them November 18, 1873, whereby they ceded all their rights to the aforesaid treaty reservation of 1867, and the United States, in lieu thereof, agreed, to set apart separate reservations for these two tribes; for the Cheyennes the country between the Cimarron River and the Salt Fork of the Arkansas River, and for the Arapahoes the tract of country west of 98° and between the Cimarron and the Canadian Rivers.

Both of said reservations embrace Cherokee territory west of 96°, as well as Creek and Seminole ceded lands.

None of these agreements, however, were put into practical execution, and the Cheyenne and Arapahoe tribes still remain on the reservation set apart for them by the order of the President issued August 10, 1869.

In the sundry civil appropriation act approved July 31, 1876 (19 Stat., p. 120), appears the following:

"For this amount, or so much thereof as may be required to pay the expenses of a commission to be appointed by the Secretary of the Interior to appraise certain Cherokee lands in the Indian Territory, in accordance with the fifth section of the act making appropriation for the expenses of the Indian Department, approved May twenty-ninth, eighteen hundred and seventy-two, five thousand dollars."

Under date of January 30, 1877, Secretary Chandler appointed Messrs. Thomas P. Kennard, of Lincoln, Neb., Enoch (Ebenezer) H. Topping, of Louisburg, Kans., and Thomas E. Smith, of Paola, Kans., a commission to appraise the lands ceded to the United States by the Cherokee Indians under their treaty of July 19, 1866, as provided for by the fifth section of the act of Congress approved May 29, 1872.

Instructions approved by the department February 26, 1877, were issued on the 3d of March, 1877, to said commission for their guidance in the performance of the duties assigned them. They entered upon their labors on the 28th of March, 1877, and continued in the field until the last of June, when they adjourned to renew the work on the 15th of September. In the mean time Mr. Kennard tendered his resignation (viz, July 25, 1877) as a member of said commission, and Mr. William N. Wilkerson, of Cass County, Missouri, was, on the 8th of September, 1877, appointed by the department, on the recommendation of this office, to fill the vacancy.

The commission, as thus constituted, met at Wichita, Kans., on the 17th of September, to renew their labors in the field, which they completed, returning to Wichita, Kans., November 9, 1877.

In compliance with the provision of the fifth section of the act of 1872, "that the Secretary report the action taken by him under this provision to Congress at its next session," I have the honor to submit herewith the report and appraisement of said commissioners, with duplicate and triplicate copies thereof. I also transmit copies of the agreements made with the Cheyenne and Arapahoe tribes of Indians by Commissioner Walker, in 1872, and Commissioner E. P. Smith, in 1873, though not strictly conforming to the provisions of the fifth section of the act of 1872; also copy of department letters appointing commission, and copy of letter of instruction to the commission.

The appraisement of the Cherokee lands which were set apart for the Pawnee Indians is as follows:

Township 21 N., R. 4 E., 22,985.04 acres, at 62½ cents	\$14,365 65
Township 22 N., R. 4 E., 22,964.52 acres, at 62½ cents	14,352 82½
Township 23 N., R. 4 E., 16,214.98 acres, at 50 cents	8,107 49
Township 24 N., R. 4 E., 1,017.10 acres, at 75 cents	762 82½
Township 20 N., R. 5 E., 21,716.14 acres, at 62½ cents	13,572 58½
Township 21 N., R. 5 E., 23,026.80 acres, at 62½ cents	14,391 75
Township 22 N., R. 5 E., 22,984.06 acres, at 62½ cents	14,365 03½
Township 23 N., R. 5 E., 21,914.48 acres, at 50 cents	10,957 24
Township 24 N., R. 5 E., 9,670.56 acres, at 50 cents	4,835 28
Township 20 N., R. 6 E., 21,810.38 acres, at 62½ cents	13,631 48½
Township 21 N., R. 6 E., 23,053.51 acres, at 50 cents	11,526 75½
Township 22 N., R. 6 E., 22,017.76 acres, at 75 cents	16,513 32
Township 23 N., R. 6 E., 638.71 acres, at 62½ cents	399 19½
230,014.04 acres	137,781 44½
Making—	
70,853.53 acres, at 50 cents	35,426 76½
136,125.65 acres, at 62½ cents	85,078 53½
23,034.86 acres, at 75 cents	17,276 14½
230,014.04 acres	137,781 44½

The average appraised value of Cherokee lands within the Pawnee Reservation is about 59.8 cents per acre.

Your attention is invited to the second proviso of the fourth section of the act of April 10, 1876 (19 Stats., p. 29), which is as follows:

"That the sum to be paid to the Cherokees by the Pawnees, for such quantity of the land herein described as may be within the limits of the Cherokee country west of the 96th meridian of west longitude, shall not exceed 70 cents per acre."

By said section, a certain tract of land therein specifically described was set apart for the Pawnee Indians, and for "such quantity" of said tract as was within the

limits of the Cherokee country, west of the 96th meridian of west longitude, a "sum" not exceeding 70 cents per acre was to be paid.

I am of the opinion that said act contemplated one price per acre for the entire tract for which such payment was provided. It was one tract, set apart for one tribe, and payment to be made to another; and while the appraisement was by townships and at various prices, and in some instances at more than 70 cents per acre, I think the method of arriving at one or the average price is not material, and that, as such price is below the maximum named in said law, it is legally unobjectionable.

Very respectfully, your obedient servant,

WM. M. LEEDS,
Acting Commissioner.

The Hon. the SECRETARY OF THE INTERIOR.

PAOLA, KANS., August 22, 1877.

SIR: The commissioners appointed by the Hon. Secretary of the Interior to appraise the Cherokee lands in the Indian Territory have the honor to submit the following report:

The commissioners assembled at Lawrence, Kans., in accordance with their instructions, on the 28th of March, 1877, and organized by the election of Thomas P. Kennard, president, and Thomas E. Smith, secretary.

For a detailed account of our action preparatory to entering upon field work, and for a more minute description of the lands thus far examined, and general history of the proceedings of the commission, your attention is invited to the journal which will be forwarded with the accounts of the disbursing agent.

We reached the Indian Territory south of Arkansas City, Kans., on the 12th of April, and on the following day began the work of inspection, following the suggestions contained in our instructions, with reference to our mode of proceeding, as closely as was found practicable.

Our progress was somewhat retarded in consequence of the fact that the military escort which was to accompany us did not arrive until the 29th of April. We were again delayed several days in the vicinity of the Pawnee Agency by the failure of the military authorities to furnish the escort with rations, which failure was doubtless in consequence of the extraordinary floods in the streams of that section.

The only other interruption in our work was from frequent rains and high water. In general, the fractional townships lying along the right bank of the Arkansas River, within our work, are much broken, with little low bottom-land and not much timber. The slopes of the hills are generally too abrupt for cultivation, and are additionally unfitted by frequent outcropping ledges of limestone rocks. This common character extends to from six to eight miles from the river, beyond which the slopes become more gentle, with less outcropping stone and deeper soil.

The valley of the Shakaska River, with the country drained by its tributaries, is exceedingly rich, and the shape of the surface almost perfection. It is quite well supplied with timber of good quality, principally burr and post oak, pecan, hackberry, walnut, and cottonwood. In range 2 east a stream runs south through townships 28, 27, 26, and 25 north, called Bodoc. The country drained by it is fine, and along the stream there is a fair supply of valuable timber. Probably 90 per cent. of the country drained by the Shakaska River and Bodoc Creek is prairie.

The country between the Salt Fork of the Arkansas River and Red Rock Creek, east of the road which runs southwest from Arkansas City to Fort Sill, and west of range 2 east, is quite similar to the valley of the Shakaska, but not so well supplied with timber. In township 24 north, range 1 east, the country is more rolling, with occasional outcropping sandstone.

The country between Red Rock Creek and Black Bear Creek is quite rolling; somewhat too much so. The quality of the soil is not quite so good as that north of Red Rock. The supply of timber is better; probably 10 per cent. of the land is forest.

From the west side of townships 22 and 23 north, range 1 west, going east, the country becomes somewhat broken by occasional ledges of sandstone. The Pawnee lands are quite rolling, abundantly timbered, and well watered. There are many varieties of fine building-stone, easily accessible, in all sections. Portions are rough and rocky, and unsuitable for cultivation.

The country east of the Pawnee lands, lying in the fork of the Arkansas and Cimarron Rivers, is quite hilly and rocky; much of it of very little value. It is well watered and timbered; probably 30 per cent. of the country is forest.

West of range 4 east, as far as and including range 3 west, the country between Black Bear Creek and the south boundary of the Cherokee lands is generally of inferior character. It is moderately well supplied with water, timber, and stone, and is better adapted to stock-raising than general farming. Some portions near the Indian meridian are quite broken.

The country drained by Hackberry and Skeleton Creeks is principally of fair quality,

smooth surface, with very little timber or stone of value. Much of the land is moderately well adapted to general farming. The country about the heads of Black Bear and Red Rock Creeks, and that drained by Nine-mile and Sand Creeks, is almost wholly devoid of timber and stone. The surface is smooth and gently rolling, with some sand-hills about the heads of Sand and Skeleton Creeks. The soil is generally of second or third rate.

There is but little timber on the south bank of the Salt Fork of the Arkansas River. There is generally a narrow strip of timber along the north bank, chiefly cottonwood.

The country between the Shakaska Valley and Osage Creek is gently rolling with fair quality of soil. It is scantily supplied with timber, except within six or eight miles of the Salt Fork of the Arkansas. The country is fairly watered, and moderately well adapted to general farming.

West of Osage Creek, as far as and including the townships of range 8 west, the country north of the Salt Fork of the Arkansas is comparatively poor, and almost wholly devoid of timber.

It is our opinion that the country within from six to eight miles of the Arkansas River is well and best adapted to stock-raising. While generally too rough for cultivation, the soil is good, and the growth of grass good.

Judging by the success of the people of Sumner and Cowley Counties, Kansas, in raising wheat, it can scarcely be questioned that the country from and including the townships of range 4 west, to within six or eight miles of the Arkansas River, and extending south from Kansas to Black Bear Creek, being very similar in character to the adjoining lands in Kansas, is well adapted to the growth of wheat.

Doubtless stock-raising might be carried on successfully in any part of the country east of the Abilene cattle-trail. Cattle have frequently been wintered in this country without the use of prepared food.

It is our impression that the country we have thus far examined is healthful. The drainage is everywhere good. The low valley-lands, especially of those running from west to east, as those of the Black Bear and Red Rock Creeks, are probably somewhat malarious, and we would regard it as important to the health of Indians located on these lands that their dwellings should be located on the highlands.

In valuing these lands, it is our impression that the chief difficulty consists in determining the amount of allowance which ought to be made in view of "the fact that these lands are for Indian occupancy and settlement only, and consequently less valuable than lands open to white settlement." We have devoted our attention carefully to the consideration of this subject. Our conclusion is that, in view of this restriction placed upon their use, these lands are worth about one-half as much as they would be if open to settlement by white people. As far as made, our appraisal is, in our judgment, in conformity with that opinion.

The detailed statement of prices fixed upon the lands thus far examined and appraised will be found in the schedules entitled "Description and valuation of Cherokee lands in the Indian Territory," &c., which will be forwarded with this report.

Having applied for and received permission to adjourn, after inspecting the lands east of the Abilene cattle-trail, until about the first of September, on the 21st of June we left the Indian Territory near Caldwell, Kans., and proceeded to Wichita, Kans., which point we reached on Saturday the 23d.

In consequence of the fact that the private affairs of Mr. Kennard seemed to him to render it extremely doubtful whether it would be possible for him to continue to serve as a member of the commission, it was determined to meet at Paola, Kans., on the 14th of August, for the purpose of preparing a report of the work of the commission as far as it had proceeded. In accordance with this, the commission adjourned at Wichita, Kans., on June 25, and reassembled at Paola, Kans., on August 14.

After the foregoing had been prepared it was determined to adjourn to meet at Wichita, Kans., on September 15, in order to resume work in the Indian Territory.

The commission then adjourned on August 23.

Very respectfully,

THOM. P. KENNARD,
EBENEZER H. TOPPING,
THOMAS E. SMITH,
Commissioners.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

PAOLA, KANS., December 12, 1877.

SIR: The commissioners appointed to appraise the Cherokee lands in the Indian Territory have the honor to submit the following additional report:

Messrs. E. H. Topping and T. E. Smith met at Wichita, Kans., on Monday morning, September 17, 1877, and were informed by Mr. William N. Wilkerson, of Cass County,

Missouri, that he had been appointed a member of the commission in place of Mr. Thomas P. Kennard, who had resigned. Mr. Wilkerson then took the required oath and was elected president of the commission.

At the same time Lieutenant Cushman, of the Sixteenth Infantry, reported to the commissioners that he was present with a detachment of ten men, and instructed to accompany the commissioners as an escort.

Our departure from Wichita was delayed until the afternoon of Thursday, September 20, awaiting the arrival of Lieutenant Cushman's wagon and team. We then left Wichita, via Wellington and Caldwell, for the Indian Territory. For a detailed account of the movements of the commission, your attention is invited to the journal of the commission.

It was manifest that the limits of the appropriation would be reached long before it would be possible to complete a personal inspection of each township; hence it was determined to pursue such a route as would, to the best of our judgment, give us the most general knowledge of the whole body of the land remaining to be appraised, within the limit of time which it was supposed might be devoted to the business of inspection, and which was supposed not to exceed six weeks.

It was determined to move west, as near as might be found practicable, through the middle of the northern half of the lands, to near the head of Buffalo Creek; thence south through Camp Supply and up Wolf Creek, to near the middle of the southern half of the lands; thence east to the Abilene cattle-trail.

It was expected that many deviations from a straight course would be found unavoidable, in order to secure wood and water, but the difficulties encountered in this respect were much greater than was anticipated. Notwithstanding we provided for carrying a small supply of water, we were frequently forced to limit our movements in consequence of the uncertainty of finding water fit for use.

In general, however, the route agreed upon was followed, but the time necessarily occupied in finding a practicable road and suitable camping places prevented us from making as many or extensive excursions to the right and left as we desired and had expected to. Much of the traveling was over precipitous hills, or crossing streams whose beds were either full of quicksands or the more troublesome red clay abounding in much of the country, or through the sand-hills which line the larger streams to a greater or less extent. The many unavoidable hindrances met with rendered it necessary to move as constantly and as rapidly as possible, so that with the exception of occasional delays caused by stormy weather, and two or three times by the breaking of the wagons, we were constantly moving, and our observation of the country was in the main confined to that portion which was in sight of the zigzag route followed from camp to camp. Almost daily one or two of the commissioners made excursions of greater or less extent to the right or left of the route followed by the wagons and escort.

While necessity compelled us to pursue a course which leaves us in some doubt respecting the character of some portions of the Cherokee lands west of the cattle-trail, it is our belief that our opportunities for judging of the great mass of those lands were sufficient to enable us to place a fair average valuation upon them, and it is our further belief that with the information we have derived from a careful examination of the plats of the townships, and field-notes of the surveys, most remote from our line of observation, that we cannot be greatly wrong as to the character of any considerable number of townships.

The reasons by which the commissioners were governed in the valuation of the Cherokee lands, while Mr. Kennard was a member of the commission, have been carefully reconsidered and approved.

The lands in the townships of range 9 west, and lying north of the Salt Fork of the Arkansas River, are composed chiefly of sand-hills and flat marshy plains. The timber is chiefly cottonwood along the streams, and scattering black oak among the hills; none of it of much value except for fuel. The country is tolerably well watered. The soil is poor and the land of little value except for grazing purposes.

The country lying west of range 9 west, and north of the Salt Fork of the Arkansas River, is generally smoothly rolling prairie of good soil. It is probably well adapted to wheat. It produces a good growth of nutritious grasses. There is some timber, principally cottonwood and elm, chiefly on Medicine-Lodge Creek and Mule Creek. The water is almost all what is called by the people of the adjoining country, in Kansas, alkali, or gypsum water, and is generally disagreeable to those who are unaccustomed to it, and to some it is very offensive and perhaps injurious. Whether water of this character is wholesome for stock may be a question of importance in the ultimate determination of the comparative value of much of the Cherokee lands west of the Abilene cattle-trail.

The country west of range 6 west, south of the Salt Fork of the Arkansas River, which is drained by that stream, is quite similar in general character to that north of the river and west of range 9 west, except that it is almost wholly devoid of timber. The surface is smoothly rolling. The soil is of good average quality. It is not as well watered as the country on the north side of the river. It is probably adapted to

wheat, and produces good crops of the indigenous grasses. It is probably well adapted to stock-raising.

The country drained by Eagle Chief Creek is quite similar in the general character of the soil to that north of it on the Salt Fork of the Arkansas. The surface is more rolling, but well adapted to tilling. There is little, if any, stone of value. There is a scanty growth of timber, principally cottonwood, along the creek and some of its larger tributaries. The country is probably well adapted to stock-raising.

The lands north of the Cimarron River and west of range 15 west are chiefly high, rolling hills, too abrupt for cultivation. There is some timber along the numerous small streams of this section, but of little value except for fuel. Along the north side of the Cimarron River there is generally a range of sand-hills, varying in width from a few hundred yards to three or four miles. The most recently formed of these hills are entirely bare of vegetation, while the greater portion are covered with a scanty growth of grass and scrubby timber of little value. The sand-hill country is of no value except for pasturage.

The water of this section is almost all bad, whether to such a degree as to materially affect its value for stock-raising we have no means of determining. Otherwise the country is tolerably well adapted to the business.

The country west of the Cimarron River and north of the 6th standard parallel is generally high rolling prairie, almost wholly devoid of timber. There is a little cottonwood and scrubby elm timber in the valleys of some of the small creeks; also some cedar in the deep gorges at the heads of the streams near the dividing ridge between the Cimarron River and the North Fork of the Canadian and Beaver Creek; but the total amount of timber is insignificant in proportion to the extent of the country. The soil of this section of the country is generally second or third rate. Much of the country—probably not less than half of it—is too rough or rolling for profitable tillage and the adaptation of the tillable portion to any of the chief cultivated crops of the West is, in our judgment, doubtful.

The growth of grass is not heavy, but it is, no doubt, very nutritious, and the country is well adapted to grazing purposes, unless the supply of water is insufficient or its character unsuitable. The water of this section is nearly all of the kind called gypsum or alkali water.

The country is generally underlaid by beds of gypsum, some of which are 10 or 12 feet thick. Springs are very rare, and the water of the streams not permanent. The adaptation of this section of the country to the use, for grazing purposes, of a permanently-settled people, owning the land in small bodies, is, in our opinion, rendered extremely doubtful by the uncertainty connected with the supply of water and its fitness for use. As an open or free range for stock, the grass might be utilized by taking advantage of favorable seasons, and driving in other sections in times of drought.

The country south of the 6th standard parallel, which is drained by the North Fork of the Canadian River and its tributaries, is generally smooth, rolling prairie. The supply of timber is scanty and of but little value except for fuel. There is some stone of poor quality. The soil is much of it sandy, and generally second or third rate. Along Wolf Creek, chiefly on the east side and the north side of the North Fork of the Canadian River, there are sand-hills extending back from one to four or five miles. The water of this section of the country is generally good, and the supply probably sufficient to render the country, in that respect, fairly well adapted to stock-raising. Much of the country, probably 30 per cent., is too sandy for cultivation, and the adaptation of any considerable portion of it to profitable tillage we regard as improbable. The growth of grass is good, and the land generally well adapted to stock-raising.

The country south of the 6th standard parallel and the Cimarron River, which is drained by that stream, is chiefly exceedingly broken prairie. There is some good tillable valley-land along the Cimarron and the larger creeks, but west of Glass Mountain probably not more than 20 per cent. of the land is plowable. About the heads of the creeks there is some good timber, and in the gorges generally there is a good deal of cedar.

There is a little stone of value. Beds of gypsum, from 6 to 10 feet thick, crop out near the hill-tops. The water of this section is very similar to that of the country to the northwest which has been spoken of, and we think the same remarks are applicable with reference to the suitability of the country to stock-raising.

The country east of the Cimarron River and the valley of Eagle Chief Creek, and west of range 6 west, which is drained by the Cimarron, consists of sand-hills, more or less covered with scrubby oak and a thin growth of grass, and open, level or gently-rolling prairie of second or third rate soil. The region of sand-hills lies along the river and extending back from 3 to 6 or 7 miles. This section of the country is moderately well watered. No stone was seen. The timber is of but little value except for fuel. Some portions of the land on Turkey Creek, and about the heads of the small creeks between Turkey Creek and Eagle Chief Creek, are probably fairly adapted to general farming purposes.

It may not be superfluous to state the substance of our observations of the game of the country traversed. We saw two or three hundred buffalo in the valley of Eagle

Chief Creek, and about as many more between Eagle Chief Creek and the Cimarron River. In the valley of Buffalo Creek we saw probably from eight to twelve thousand buffalo; in the valley of the North Fork of the Canadian, one thousand, probably. There are considerable numbers of deer and turkeys, chiefly in the sand-hills and along the most heavily-timbered streams. As furnishing a permanent supply of food and other necessaries of even savage life to any considerable number of people, the game of the country seems to us worthy of very little consideration.

As a whole we regard the country referred to in this portion of our report as chiefly valuable for stock-raising. Some portions of it we believe to be adapted to wheat, and we have little doubt that, with experience, a considerable portion of the country will be found adapted to other profitable crops.

On Sunday, November 4, we reached the Abilene cattle-trail and stage-road, near the stage-station on Skeleton Creek, and started for Wichita, Kans., which place we reached on November 9. Mr. Smith having received intelligence of the severe illness of one of his family, it was decided to adjourn to meet in Paola, Kans., on Monday, November 26, on which day the commission reassembled and began the preparation of this report.

In conclusion, we desire to state that, while seeking to use the money appropriated for the business in which we have been employed in the most rigidly economical manner, and to limit our expenditure to that amount, we have, in various ways, and from various causes, apparently to us unavoidable, exceeded it, which being unauthorized to do, no account is made of such excess.

The journal of the commission will be transmitted with the accounts of the disbursing agent, Mr. Topping.

For the detailed statement of prices fixed upon the lands appraised by us, your attention is invited to the schedules which are entitled "Description and valuation of Cherokee lands in Indian Territory," &c., which are forwarded herewith.

Very respectfully,

WILLIAM N. WILKERSON,
EBENEZER H. TOPPING,
THOMAS E. SMITH,
Commissioners.

Hon. E. A. HAYT,
Commissioner of Indian Affairs, Washington, D. C.

Description and valuation of Cherokee lands in Indian Territory, lying west of 96° west longitude and west of the Osage lands, appraised in 1877, under the provisions of the fifth section of an act of Congress approved May 29, 1872. (Stats. at Large, vol. 17, p. 190.)

Description.		Area.	Value per acre.	Total value.	Remarks.
Township.	Range.				
<i>North.</i>		<i>Acres.</i>	<i>Cents.</i>		
20	East 1	21,555.08	25	\$5,388 96½	
21	1	23,048.09	62½	14,405 05½	
22	1	23,013.70	75	17,260 27½	
23	1	23,018.79	62½	14,386 74½	
24	1	22,914.45	62½	14,321 53½	
25	1	22,517.94	87½	19,703 19½	
26	1	23,038.15	100	23,038 15	
27	1	22,988.61	75	17,241 45½	
28	1	23,002.93	87½	20,127 56½	
29	1	15,255.70	87½	13,348 73½	
		220,354.22		159,221 67½	
20	2	21,749.12	50	10,874 56	
21	2	23,021.34	75	17,266 00½	
22	2	23,049.27	75	17,286 95½	
23	2	22,945.91	75	17,209 43½	
24	2	22,443.43	62½	14,027 14½	
25	2	16,901.90	62½	10,563 68½	
26	2	21,553.14	62½	13,470 71½	
27	2	22,902.78	75½	17,177 08½	
28	2	22,959.03	87½	20,089 15½	
29	2	15,284.49	87½	13,373 92½	
		212,810.41		151,338 65½	
20	3	21,800.27	75	16,350 20½	
21	3	23,025.09	62½	14,390 68½	
22	3	22,986.69	62½	14,366 68½	
23	3	14,098.84	62½	8,811 77½	
24	3	14,311.73	50	7,155 86½	

Description and valuation of Cherokee lands in Indian Territory, &c.—Continued.

Description.		Range.	Area.	Value per acre.	Total value.	Remarks.	
Township.							
<i>North.</i>		<i>East.</i>	<i>Acres.</i>	<i>Cents.</i>			
25	3	52.45	62½	\$32 78½		
26	3	20,239.15	37½	7,589 68½		
27	3	22,656.08	50	1,328 04		
28	3	17,355.71	62½	10,847 31½		
29	3	12,375.07	50	5,187 53½		
			168,901.08		97,060 56½		
20	4	21,947.18	75	16,460 38½	Pawnee. Do. Do. Do.	
21	.....	4	22,985.04	62½	14,365 65	
22	.....	4	22,964.52	62½	14,352 82½	
23	.....	4	16,214.98	50	8,107 49	
24	.....	4	1,017.10	75	762 82½	
24	.....	4	2,667.77	50	1,333 88½	
25	.....	4	84.64	62½	52 90	
26	.....	4	5,944.63	50	2,972 31½	
27	.....	4	2,669.96	37½	1,001 23½	
			96,495.82		59,409 51		
20	5	21,716.14	62½	13,572 58½	Pawnee. Do. Do. Do.	
21	.....	5	23,026.80	62½	14,391 75	
22	.....	5	22,984.06	62½	14,365 03½	
23	.....	5	21,914.48	50	10,957 24	
24	.....	5	9,670.56	50	4,835 28	
			99,312.04		58,121 89½		
20	6	21,810.38	62½	13,631 48½	Pawnee. Do. Do. Do.	
21	.....	6	23,053.51	50	11,526 75½	
22	.....	6	22,017.76	75	16,513 32	
23	.....	6	638.71	62½	399 19½	
			67,520.36		42,070 75½		
20	7	21,810.47	50	10,905 23½		
21	.....	7	16,637.91	37½	6,239 21½	
22	.....	7	7,486.10	50	3,743 05	
			45,934.48		20,887 50½		
20	8	21,943.48	37½	8,228 80½		
21	.....	8	14,840.29	25	3,710 07½	
			36,783.77		11,938 87½		
20	9	17,508.43	12½	2,188 55½		
21	.....	9	721.39	62½	450 86½	
			18,229.82		2,639 42½		
20	10	4,507.65	25	1,126 91½		
			4,507.65		1,126 91½		
		<i>West.</i>					
20	1	21,659.16	37½	8,122 18½		
21	.....	1	22,956.55	62½	18,347 84½	
22	.....	1	22,946.43	75	17,209 82½	
23	.....	1	22,983.83	62½	14,364 89½	
24	.....	1	23,078.05	75	17,308 53½	
25	.....	1	22,290.41	75	16,717 80½	
26	.....	1	23,007.60	87½	20,131 65	
27	.....	1	22,939.48	100	22,939 48	
28	.....	1	22,992.48	100	22,992 48	
29	.....	1	15,203.63	87½	13,303 17½	
			220,057.62		167,437 87½		
20	2	21,614.09	62½	13,508 80½		
21	.....	2	22,989.74	62½	14,368 58½	
22	.....	2	22,830.95	75	17,123 21½	
23	.....	2	22,952.43	75	17,214 32½	
24	.....	2	23,051.11	87½	20,169 72½	
25	.....	2	22,497.27	75	16,872 95½	
26	.....	2	22,915.61	62½	14,322 25½	

CHEROKEE INDIAN LANDS IN INDIAN TERRITORY.

Description and valuation of Cherokee lands in Indian Territory, &c.—Continued.

Description.		Area.	Value per acre.	Total value.	Remarks.
Township.	Range.				
<i>North.</i>		<i>Acres.</i>	<i>Cents.</i>		
27	West 2	22,957.92	87½	\$20,061 93	
28	2	22,899.48	87½	20,037 04½	
29	2	15,149.93	87½	13,256 18½	
		219,823.53		160,935 02½	
20	3	21,645.30	37½	8,160 98½	
21	3	22,955.11	62½	14,346 94½	
22	3	23,087.83	62½	14,429 89½	
23	3	23,029.62	75	17,272 21½	
24	3	23,099.37	87½	20,211 94½	
25	3	22,000.03	75	16,500 02½	
26	3	23,065.34	50	11,532 67	
27	3	23,040.77	62½	14,400 48½	
28	3	23,060.14	87½	20,177 62½	
29	2	15,103.15	75	11,327 36½	
		220,086.66		148,316 14½	
20	4	21,581.56	75	16,186 17	
21	4	22,990.58	62½	14,369 11½	
22	4	22,977.62	75	17,233 21½	
23	4	22,926.51	75	17,194 88	
24	4	23,117.77	75	17,338 32½	
25	4	22,427.81	75	16,820 85½	
26	4	23,014.12	75	17,260 59	
27	4	23,078.12	75	17,308 59	
28	4	23,065.74	75	17,299 30½	
29	4	15,099.92	62½	9,437 45	
		229,279.75		160,448 50	
20	5	21,315.67	75	15,986 75½	
21	5	22,933.93	62½	14,333 70½	
22	5	23,059.22	62½	14,412 01½	
23	5	22,979.70	62½	14,362 31½	
24	5	23,093.78	62½	14,433 61½	
25	5	22,071.78	50	11,035 89	
26	5	22,911.77	75	17,183 82½	
27	5	22,856.82	62½	14,285 51½	
28	5	22,884.87	70	17,163 65½	
29	5	15,089.92	62½	9,431 20	
		219,197.46		142,628 47½	
20	6	21,490.07	62½	13,431 29½	
21	6	22,958.84	62½	14,349 27½	
22	6	22,967.54	50	11,483 77	
23	6	22,919.99	62½	14,324 99½	
24	6	22,669.58	37½	8,538 50½	
25	6	22,851.13	37½	8,569 17½	
26	6	21,932.11	37½	8,224 54½	
27	6	23,123.57	37½	8,671 33½	
28	6	23,183.67	37½	8,693 87½	
29	6	15,108.14	50	7,554 07	
		219,304.64		103,840 92½	
20	7	13,566.06	50	6,783 03	East 8° meridian.
21	7	14,364.15	50	7,182 07½	
22	7	14,372.49	25	3,593 12½	
23	7	14,282.29	25	3,570 57½	
24	7	14,395.97	25	3,598 99½	
25	7	13,523.20	37½	5,071 20	
26	7	12,902.72	37½	4,838 52	
27	7	13,394.60	25	3,348 65	
28	7	13,529.23	25	3,382 30½	
29	7	8,680.31	25	2,170 07½	
		133,011.02		43,538 54½	
20	7	7,966.79	50	3,993 39½	West of 98° meridian.
21	7	8,662.33	50	4,331 16½	
22	7	8,617.23	25	2,154 30½	
23	7	8,524.68	25	2,131 17	
24	7	8,468.91	25	2,117 22½	
25	7	9,527.52	37½	3,572 82	

Description and valuation of Cherokee lands in Indian Territory, &c.—Continued.

Description.		Area.	Value. per acre.	Total value.	Remarks.
Township.	Range.				
<i>North.</i>		<i>West.</i>	<i>Acres.</i>	<i>Cents.</i>	
26	7	9,186.68	37½	\$3,442 75½
27	7	9,375.41	25	2,393 85½
28	7	8,429.37	25	2,357 34½
29	7	6,334.57	25	1,583 04½
			86,307.49		28,077 67½
20	8	21,295.52	37½	7,985 82
21	8	23,046.80	25	5,761 70
22	8	22,990.11	37½	8,621 29½
23	8	23,000.52	37½	8,625 19½
24	8	22,883.74	37½	8,581 40½
25	8	23,035.88	50	11,517 94
26	8	21,626.61	25	5,406 65½
27	8	23,040.80	25	5,760 20
28	8	23,624.95	25	5,756 23½
29	8	14,919.13	25	3,729 78½
			218,864.06		71,746 22½
20	9	21,236.70	25	5,309 17½
21	9	23,065.89	25	5,766 47½
22	9	23,052.65	37½	8,644 74½
23	9	23,014.26	37½	8,630 34½
24	9	23,037.39	37½	8,639 02½
25	9	22,917.56	50	11,458 78
26	9	21,947.89	25	5,486 97½
27	9	22,335.89	25	5,583 97½
28	9	22,902.14	12½	2,862 76½
29	9	14,768.44	12½	1,846 05½
			218,278.81		64,228 30½
20	10	19,285.95	25	4,821 48½
21	10	21,489.71	25	5,372 42½
22	10	22,921.66	37½	8,585 62½
23	10	22,948.56	37½	8,605 71
24	10	22,955.57	37½	8,605 33½
25	10	22,966.08	50	11,483 04
26	10	22,900.04	12½	2,862 50½
27	10	22,066.18	25	5,516 54½
28	10	22,745.33	50	11,372 66½
29	10	14,719.92	37½	5,519 97
			214,999.00		72,758 31½
20	11	21,390.22	37½	8,021 33½
21	11	21,080.55	25	5,270 13½
22	11	23,046.22	25	5,761 55½
23	11	23,044.14	37½	8,641 55½
24	11	23,056.25	37½	8,676 09½
25	11	23,059.99	50	11,529 99½
26	11	23,042.04	50	11,521 02
27	11	22,971.51	37½	8,614 31½
28	11	22,953.33	50	11,476 66½
29	11	14,755.29	50	7,377 64½
			218,479.54		86,890 31½
20	12	21,453.23	37½	8,044 96½
21	12	22,882.63	37½	8,590 98½
22	12	20,868.56	25	5,067 14
23	12	22,948.55	37½	8,605 70½
24	12	23,058.52	50	11,529 26
25	12	23,047.72	50	11,523 86
26	12	23,055.14	50	11,527 57
27	12	23,061.50	37½	8,648 06½
28	12	22,981.08	50	11,490 54
29	12	14,906.89	50	7,453 44½
			217,663.82		92,471 53½

Description and valuation of Cherokee lands in Indian Territory, &c.—Continued.

Description.		Area.	Value per acre.	Total value.	Remarks.
Township.	Range.				
<i>North.</i>		<i>West.</i>	<i>Acres.</i>	<i>Cents.</i>	
20	13	21,582.12	25	\$5,295 53
21	13	22,987.51	25	5,746 87½
22	13	20,865.62	12½	2,608 20½
23	13	22,781.15	25	5,695 23½
24	13	22,955.09	37½	8,608 15½
25	13	22,996.54	50	11,498 27
26	13	22,969.65	50	11,484 82½
27	13	22,925.36	37½	8,597 01
28	13	22,923.63	50	11,561 81½
29	13	14,870.69	50	7,435 34½
			217,857.36		78,531 32½
20	14	21,810.90	12½	2,726 86½
21	14	23,039.71	12½	2,879 96½
22	14	21,268.32	12½	2,651 04
23	14	21,494.59	25	5,373 64½
24	14	25,171.15	37½	8,689 18½
25	14	22,990.27	37½	8,621 35½
26	14	22,905.45	37½	8,589 54½
27	14	22,925.08	37½	8,596 90½
28	14	22,981.44	37½	8,618 04
29	14	14,948.54	50	7,474 27
			217,475.45		64,220 30½
20	15	22,416.11	25	5,604 02½
21	15	22,961.16	12½	2,870 14½
22	15	22,952.65	12½	2,869 08½
23	15	19,308.93	25	4,827 23½
24	15	22,988.90	25	5,747 22½
25	15	25,034.03	37½	8,637 76½
26	15	22,986.44	25	5,746 61
27	15	22,968.97	37½	8,613 36½
28	15	22,990.57	37½	8,621 46½
29	15	15,034.24	37½	5,687 84
			217,642.00		59,174 75
20	16	22,309.44	25	5,577 36
21	16	23,104.49	25	5,776 12½
22	16	23,058.11	12½	2,882 26½
23	16	23,026.87	25	5,756 71½
24	16	18,909.62	25	4,727 40½
25	16	22,677.66	25	5,669 41½
26	16	22,938.44	25	5,734 61
27	16	22,919.71	25	5,729 92½
28	16	22,945.72	12½	2,868 21½
29	16	14,999.87	25	3,749 96½
			216,889.93		48,472 00½
20	17	21,926.69	25	5,481 67½
21	17	22,990.63	25	5,747 65½
22	17	23,050.65	12½	2,881 33½
23	17	22,970.46	12½	2,871 30½
24	17	23,094.76	25	5,773 69
25	17	20,534.44	25	5,133 61
26	17	21,391.28	25	5,347 82
27	17	23,135.10	25	5,783 77½
28	17	23,124.71	25	5,781 17½
29	17	14,941.84	25	3,735 46
			217,160.56		48,537 50½
20	18	22,254.21	37½	8,845 32½
21	18	22,331.72	25	5,582 93
22	18	23,059.99	25	5,764 99½
23	18	22,955.94	25	5,738 98½
24	18	23,252.59	25	5,813 14½
25	18	23,002.54	25	5,750 63½
26	18	21,556.39	25	5,389 09½
27	18	21,558.41	25	5,389 60½
28	18	23,058.63	25	5,764 65½
29	18	14,882.99	25	3,720 74½
			217,913.41		57,260 12½

Description and valuation of Cherokee lands in Indian Territory, &c.—Continued.

Description.		Area.	Value per acre.	Total value.	Remarks.
Township.	Range.				
<i>North.</i>		<i>West.</i>	<i>Acres.</i>	<i>Cents.</i>	
20	22	22,005.18	25	\$5,501 29½
21	19	22,886.85	25	5,721 71½
22	19	22,486.56	37½	8,432 46
23	19	22,856.83	25	5,714 20½
24	19	23,166.54	25	5,791 63½
25	19	23,073.72	25	5,768 43
26	19	23,009.33	25	5,752 33
27	19	18,893.08	25	4,723 27
28	19	23,091.65	25	5,772 91½
29	19	14,837.65	25	3,799 41½
			216,307.38		56,887 66½
20	20	21,851.33	25	5,462 83½
21	20	23,027.32	25	5,756 83
22	20	23,000.36	37½	8,025 13½
23	20	22,977.56	25	5,744 39
24	20	23,191.30	25	5,797 82½
25	20	23,074.50	25	5,768 62½
26	20	23,034.74	25	5,758 68½
27	20	21,037.52	25	5,259 38
28	20	21,242.04	25	5,310 76
29	20	14,565.71	25	3,641 42½
			217,003.38		57,125 89
20	21	21,721.02	25	5,430 25½
21	21	23,002.42	25	5,750 80½
22	21	22,983.45	25	5,745 86½
23	21	22,981.37	25	5,745 34½
24	21	23,134.28	12½	2,891 78½
25	21	23,080.16	12½	2,885 02½
26	21	23,176.65	37½	8,091 24½
27	21	23,116.04	37½	8,668 51½
28	21	22,623.27	25	5,655 81½
29	21	13,178.97	25	3,294 74½
			218,997.63		54,759 18½
20	22	21,694.82	25	5,423 70½
21	22	53,003.44	25	5,750 86
22	22	22,987.73	25	5,746 93½
23	22	23,032.32	25	5,758 08
24	22	23,063.25	25	5,765 81½
25	22	23,033.84	12½	2,879 23
26	22	23,062.76	25	5,765 69
27	22	22,953.84	37½	8,607 69
28	22	22,959.12	25	5,739 78
29	22	14,982.72	25	3,745 68
			220,773.84		55,182 46
20	23	21,695.80	25	5,423 95
21	23	23,017.85	25	5,754 46½
22	23	23,003.25	37½	8,026 21½
23	23	22,978.67	25	5,744 66½
24	23	22,765.46	25	5,691 36½
25	23	22,996.90	12½	2,874 61½
26	23	23,052.15	12½	2,881 51½
27	23	22,951.84	25	5,737 96
28	23	22,894.00	25	5,723 50
29	23	15,037.74	25	3,759 43½
			220,393.66		52,217 69
20	24	21,662.23	25	5,415 55½
21	24	23,023.64	25	5,755 91
22	24	22,998.77	25	5,749 89½
23	24	22,956.30	25	5,739 07½
24	24	22,887.87	35	5,671 96½
25	24	23,038.10	25	5,759 52½
26	24	23,116.58	12½	2,889 57½
27	24	23,116.42	12½	2,889 55½
28	24	13,041.70	12½	2,880 21½
29	24	15,178.67	25	3,794 66½
			220,820.28		46,545 73½

Description and relation of Cherokee lands in Indian Territory, &c.—Continued.

Description.		Area.	Value per acre.	Total value.	Remarks.
Township.	Range.				
<i>North.</i>					
	<i>West.</i>	<i>Acres.</i>	<i>Cents.</i>		
20	25	21,779.11	25	\$5,444 77 $\frac{1}{2}$	
21	25	23,030.27	25	5,757 50 $\frac{1}{2}$	
22	25	23,008.86	25	5,752 21 $\frac{1}{2}$	
23	25	22,958.40	25	5,739 60	
24	25	22,635.81	25	5,658 95 $\frac{1}{2}$	
25	25	23,003.76	25	5,750 94	
26	25	22,984.12	25	5,746 03	
27	25	23,000.36	12 $\frac{1}{2}$	2,875 04 $\frac{1}{2}$	
28	25	23,015.32	12 $\frac{1}{2}$	2,876 91 $\frac{1}{2}$	
29	25	14,734.60	25	3,683 65	
		220,150.61		49,285 69 $\frac{1}{2}$	
20	26	17,563.30	25	4,390 82 $\frac{1}{2}$	
21	26	10,255.04	25	4,063 76	
22	26	10,108.01	25	4,027 00 $\frac{1}{2}$	
23	26	10,001.40	25	4,000 35	
24	26	15,757.42	25	3,939 35 $\frac{1}{2}$	
25	26	12,486.85	25	3,121 71 $\frac{1}{2}$	
26	26	12,553.05	25	3,138 26 $\frac{1}{2}$	
27	26	12,548.88	12 $\frac{1}{2}$	1,568 61	
28	26	12,462.92	12 $\frac{1}{2}$	1,557 80 $\frac{1}{2}$	
29	26	6,245.64	12 $\frac{1}{2}$	780 70 $\frac{1}{2}$	
		137,982.51		30,588 44 $\frac{1}{2}$	

RECAPITULATION.

20 to 29	1 E.	220,354.22	\$159,221 67 $\frac{1}{2}$	East of 98° meridian. West of 98° meridian.
20 to 29	2 E.	212,810.41	151,388 65 $\frac{1}{2}$	
20 to 29	3 E.	168,901.08	97,060 56 $\frac{1}{2}$	
20 to 27	4 E.	96,495.82	59,409 51	
20 to 24	5 E.	99,312.04	58,121 89 $\frac{1}{2}$	
20 to 23	6 E.	67,520.36	42,670 75 $\frac{1}{2}$	
20 to 22	7 E.	45,934.48	20,887 50 $\frac{1}{2}$	
20 to 21	8 E.	36,783.77	11,938 87 $\frac{1}{2}$	
20 to 21	9 E.	18,229.82	2,639 42 $\frac{1}{2}$	
20	10 E.	4,507.65	1,126 91 $\frac{1}{2}$	
20 to 29	1 W.	220,057.62	167,437 87 $\frac{1}{2}$	
20 to 29	2 W.	219,828.53	166,935 02 $\frac{1}{2}$	
20 to 29	3 W.	220,086.66	148,316 14 $\frac{1}{2}$	
20 to 29	4 W.	220,279.75	160,448 50	
20 to 29	5 W.	219,197.46	142,628 47 $\frac{1}{2}$	
20 to 29	6 W.	219,304.64	103,840 92 $\frac{1}{2}$	
20 to 29	7 W.	133,011.02	43,538 54 $\frac{1}{2}$	
20 to 29	7 W.	86,307.49	28,077 67 $\frac{1}{2}$	
20 to 29	8 W.	218,864.06	71,746 22 $\frac{1}{2}$	
20 to 29	9 W.	218,278.81	64,228 30 $\frac{1}{2}$	
20 to 29	10 W.	214,999.00	72,758 31 $\frac{1}{2}$	
20 to 29	11 W.	218,479.54	86,890 31 $\frac{1}{2}$	
20 to 29	12 W.	217,663.82	92,471 56 $\frac{1}{2}$	
20 to 29	13 W.	217,857.36	78,531 32 $\frac{1}{2}$	
20 to 29	14 W.	217,475.45	64,220 30 $\frac{1}{2}$	
20 to 29	15 W.	217,642.00	59,174 75	
20 to 29	16 W.	216,889.93	48,472 00 $\frac{1}{2}$	
20 to 29	17 W.	217,160.56	48,537 50 $\frac{1}{2}$	
20 to 29	18 W.	217,913.41	37,260 12 $\frac{1}{2}$	
20 to 29	19 W.	216,307.38	56,887 06 $\frac{1}{2}$	
20 to 29	20 W.	217,003.38	57,125 89	
20 to 29	21 W.	218,997.63	54,759 18 $\frac{1}{2}$	
20 to 29	22 W.	220,773.84	55,183 46	
20 to 29	23 W.	220,393.66	52,217 69	
20 to 29	24 W.	220,820.28	46,545 73 $\frac{1}{2}$	
20 to 29	25 W.	220,150.61	49,285 69 $\frac{1}{2}$	
20 to 29	26 W.	137,982.51	30,588 44 $\frac{1}{2}$	
Total		6,574,576.05	2,711,923 40 $\frac{1}{2}$	
Average value per acre			41 $\frac{1}{2}$	

E.

DEPARTMENT OF THE INTERIOR,
Washington, June 21, 1879.

SIR: The 5th section of the act of May 29, 1872 (17 Stats., 190), declares "That the President of the United States and the Secretary of the Interior are hereby authorized to make an appraisal of the Cherokee lands west of the 96th meridian of west longitude and west of the Osage Indians in the Indian Territory, and south of the south line of the State of Kansas, ceded to the United States by the Cherokee Indians under their treaty of July 19, 1866, for the settlement of friendly Indians, and report the same to Congress."

The 4th section of the act of April 10, 1876 (19 Stats., 29), declares "That the following-described reservation in Indian Territory be, and the same is hereby, set apart for the use and occupancy of the Pawnee tribe of Indians, namely: All that tract of country between the Cimarron and Arkansas Rivers embraced within the limits of townships 21, 22, 23, and 24 north, of range 4 east, townships 18, 19, 20, 21, 22, 23, and 24 north, of range 5 east, townships 18, 19, 20, 21, 22, and 23 north, of range 6 east of the Indian meridian: *Provided*, That the terms of the 16th article of the Cherokee treaty of July 19, 1866, shall be complied with so far as the same may be applicable thereto: *And provided further*, That the sum to be paid the Cherokees by the Pawnees for such quantity of the land herein described as may be within the limit of the Cherokee country west of the ninety-sixth meridian west longitude, shall not exceed seventy cents per acre."

Article XVI of the Cherokee Treaty of July 19, 1866, referred to above (14 Stat., 804), provides as follows: "The United States may settle friendly Indians in any part of the Cherokee country west of 96 degrees, to be taken in a compact form in quantity not exceeding one hundred and sixty acres for each member of each of said tribes thus to be settled, the boundaries of each of said districts to be distinctly marked, and the land to be conveyed in fee-simple to each of said tribes, to be held in common or by their members in severalty as the United States may decide.

"Said lands thus disposed of to be paid for to the Cherokee Nation at such price as may be agreed on between the said parties in interest, subject to the approval of the President; and if they should not agree, then the price to be fixed by the President."

Under date of 30th January, 1877, three commissioners were appointed by the Secretary of the Interior, to appraise the lands ceded by the Cherokees under the provisions of the treaty above cited.

In valuing the lands the commissioners adopted as the basis of their appraisal a one-half valuation, on the ground that being for Indian occupancy and settlement only, these lands were worth about one-half as much as they would be if open to settlement by white people.

On this basis the average appraised valuation of the entire tract of 6,574,576.05 acres, including the Pawnee Reservation, was 41 cents per acre.

The Pawnee Reservation embraces within its limits about 230,014.04 acres, and the average valuation placed upon these lands was 59 cents per acre.

Deducting the Pawnee Reservation from the entire tract, the average valuation of the remaining 6,344,562.01 acres would be, according to the commissioners' report, 40.47 cents per acre.

The Cherokees object to the half valuation adopted by the commissioners as both unreasonable and unjust, and are not satisfied with the appraisal made thereon.

After a careful examination of all the facts bearing upon the question of appraisal, I am satisfied that the restriction placed upon the use of these lands does not warrant a reduction of one-half in their appraised valuation.

The Osage lands, comprising 1,466,167 acres, were purchased from the Cherokees at 70 cents per acre. The average character of these lands is about the same as the Pawnee tract, while the percentage of tillable land is much larger in the Pawnee Reservation than in that of the Osages.

Regarding the amount paid for the Osage lands, per acre, as a fair price, there would appear to be no good reason why lands equally valuable should not be paid for at the same rate.

I would therefore respectfully recommend that the price of the lands occupied by the Pawnees be fixed at seventy (70) cents per acre; and that the remainder of the lands lying west of the 96 degrees west longitude, embraced in the report of said commissioners, be valued at forty-seven and forty-nine hundredths (47.49) cents per acre.

I have the honor to be, sir, very respectfully, your obedient servant,

C. SCHURZ,
Secretary.

F.

The action of the Secretary of the Interior, as conveyed to me by letter dated the 19th instant, in appraising and fixing the value of certain lands ceded by the Cherokee Indians to the United States to be used in the settlement of friendly Indians as follows:

Lands lying west of 96 degrees west longitude in Indian Territory, set apart under act of April 10, 1876 (19 Stats., 29), as a portion of the reservation for the Pawnee Indians, embracing an area of 230,014.04 acres at 70 cents per acre.

All other lands ceded by the Cherokees in the treaty of 1833, article 16 (14 Stats., 304), embracing an area of 6,344,562.01 acres, at 47.49 cents per acre, is hereby approved and ratified as my act under the act of May 29, 1872.

R. B. HAYES.

EXECUTIVE MANSION,
June 23, 1879.

G.

WASHINGTON, D. C., *January 11, 1882.*

Hon. S. J. KIRKWOOD,
Secretary of the Interior:

SIR: In compliance with our instructions we desire to bring before you a matter of considerable importance, calling for early action.

Your predecessor, under date of February 9, 1880, sent a communication to Congress containing the appraisement of certain lands belonging to us and lying west of the Arkansas River, being in all 6,514,576.05 acres. Of that amount 230,014.05 acres was appraised separately, and was to be paid for in a manner already prescribed by act of April 10, 1876, and the remainder, 6,344,562, were appraised by the Secretary and the President, as the law directed, in June, 1879, 47.49 cents per acre, making an aggregate of \$3,013,032.

Upon this there is due us interest from July 1, 1879, to the present date, or date of payment, at the rate of five per cent. per annum. Upon that amount there has been paid, by an appropriation in the deficiency bill of 1880, the sum of \$300,000, and also an appropriation last year of \$50,000 passed to our credit last summer as sums paid on our lands thus appraised at an aggregate for the entire tract of 47.49 cents per acre. It will thus be seen that there has been a full recognition of the amount thus due us by the President, the department, and Congress. We have so far been unable to secure full payment, and now ask that you send an estimate for the principal and interest due us. Of the amount due we ask that the sum of five hundred thousand dollars be invested under the act of April 1, 1880, as a perpetual school and seminary fund, and that the remainder be placed to the credit of the Cherokee Nation, subject to the action of the Cherokee Legislature or National Council.

At the time the treaty of July 19, 1853, was entered into, the demand was made on us that we cede all our lands west of 96 degrees, on the ground that they were immediately needed for the occupancy of other Indian tribes. A treaty had been made with the Osages in 1835, contemplating their removal to the Indian Territory, which was accomplished, and took part of the tract. Treaties were also being at that time entered into with the Arapahoes, the Kiowas, and the Comanches, and the Cheyennes, by which all the remainder of our lands lying west of 96 degrees were set apart for these Indians, and the lands were so set apart by the ratification of these treaties, and which allotments have never been changed by law, save inasmuch as has been hereinbefore specified. Every consideration of law and equity required that we should have been paid for the land ceded long ago. Had our treaty been complied with, we should have been paid fifteen years ago.

The treaty has, in all essential particulars, been set aside. In no instance were the Cherokees permitted to have a voice in their appraisement or disposition. In 1872, General Francis Walker, then Commissioner of Indian Affairs, in a letter dated February 16, 1872, called the attention of the Secretary of the Interior to the subject, and by the Secretary the matter was presented to Congress.

In the letter the Commissioner said: "By the terms of a treaty concluded October 23, 1857, with the Cheyennes and Arapahoes, a portion of said Cherokee country west of 90 degrees of west longitude, covering (4,300,000) four million three hundred thousand acres, more or less, was assigned to and set apart as a reservation for said tribes, the United States having received these lands from the Cherokees and transferred them under treaty provisions recited, to the Cheyennes and Arapahoes, are of course responsible for the payment to the Cherokees of the sums properly to be paid on account of these lands."

Under these communications the act of May 29, 1872, was enacted, and finally, un-

der it, as stated, the entire tract was appraised by the Secretary and the President. It was not appraised as for particular tribes, but as it had been all at the date of the law authorizing it set apart for certain tribes, the boundaries of said district distinctly set forth, and the occupants determined, it was, without reference to the difference in value of timber, valley, or pasture land, appraised as one entire tract, the valuation being for the whole as a single body thus disposed of, and not an appraisal of particular tracts.

It was neither the purpose of the law, nor would it be in accordance with either law or equity, to pick out the most valuable tracts, and take them at the price fixed for the whole. We could not permit such a gross abuse of the trust, nor is it to be presumed that the United States authorities would be guilty of it. We have already suffered great wrong by this delay. We ask a prompt remedy. The whole amount should be paid now, and it is all due under the only existing regulations and provisions; nor is there any authority of law under which only a part of it could be paid.

If the United States is unable to pay for it all at present, we ask that it pay principal and interest for what it wants, and restore the remainder to us as it was before the treaty of 1865.

To one of these two things we are beyond all question entitled. Asking your favorable recommendation at an early day as practicable, we are,

Very respectfully,

DAN'L H. ROSS,
R. W. WOLFE,
Cherokee Delegation.

W. S. PHILLIPS,
Special Agent.

H.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 2, 1882.

HON. S. J. KIRKWOOD,
Secretary of the Interior:

SIR: I have the honor to acknowledge the receipt, by reference from the department, of a letter from Messrs. Daniel H. Ross and R. M. Wolfe, Cherokee delegation, dated January 11, 1882, asking for an estimate for principal and interest due the Cherokees for lands lying west of the Arkansas River (referred to in Article XVI of the treaty of July 19, 1866), and that investment of \$500,000 be made under act of April 1, 1880, as a perpetual school fund, and the remainder placed to the credit of the Cherokee nation, subject to action of the national council. In reply to the request of the department for any information in this bureau bearing on the matter, I have to state as follows:

The Cherokee lands west of the Arkansas River have all been surveyed, and the area thereof according to the official plats of survey is 6,574,586.55 acres, embracing the following tracts:

	Acres.
Cheyenne and Arapahoe lands east of Pawnee	105,455.52
Cheyenne and Arapahoe, between Arkansas River, Pawnee, and Cimarron	3,635,473.19
Cheyenne and Arapahoe, occupied by Nez Percés	90,710.89
Cheyenne and Arapahoe, occupied by Poncas	101,894.31
Cheyenne and Arapahoe, occupied by Otoes and Missouriias	129,113.20
Pawnee lands north of Creek boundary	230,014.04
Lands west of Cimarron (unassigned)	2,281,925.40

The letter from Messrs. Ross and Wolfe, with inclosure, herewith returned.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

I.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 7, 1882.

SIR: I have the honor to acknowledge the receipt, by your reference of the 4th instant, of a communication dated the 11th ultimo, from the Cherokee delegates, wherein they ask that an estimate be submitted to Congress for principal and interest due the

Cherokee Nation, under the 16th article of the treaty of 1866 (14 Stat., 804), for lands lying west of the Arkansas River; \$500,000 of the amount to be invested under the act of April 1, 1851, as a perpetual school fund, and the remainder to be placed to the credit of the Cherokee Nation, subject to the action of the national council.

In your reference indorsement upon this communication, your request to be furnished with all information in this office showing what payments have been made in any way to the Cherokee Indians, or for their benefit, for the lands, or any of them, mentioned in the report of the Commissioner of the General Land Office, which accompanies the communication of the delegates above referred to.

In reply, I have to state that of the lands west of the Arkansas River mentioned in the 16th article of the treaty of 1866, there has actually been "sold and occupied" the following quantities, viz :

	Acres.
To the Pawnees.....	230,014.04
To the Poncas.....	101,894.31
To the Nez Percés.....	90,710.89
To the Otoes and Missourias.....	129,113.20
Total.....	551,732.44

By the deficiency act of June 16, 1880 (21 Stat., 248), an appropriation of \$300,000 was made, "to be paid into the treasury of the Cherokee Nation, out of the funds due said nation, for its lands in the Indian Territory west of the Arkansas River." * * *

By the deficiency act of March 3, 1831 (21 Stat., 422), \$50,000 was appropriated for the purchase of the lands occupied by the Poncas.

As before stated, there was assigned to the Poncas 101,894.31 acres, which at \$47.49 cents per acre, the price fixed by the President June 23, 1879, amounts to \$48,389.46, which amount has been carried to the credit of the Cherokees.

The Cherokee Nation has therefore received, on account of their lands west of the Arkansas River, "sold and occupied," the sum of \$348,389.46.

I will add that the President fixed the price of the Pawnee lands at 70 cents per acre, and the remainder of the lands west of the Arkansas River at 47.49 cents per acre.

The papers referred by you are herewith returned.

Very respectfully, your obedient servant,

H. PRICE, *Commissioner.*

The honorable the SECRETARY OF THE INTERIOR.

K.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,
Washington, February 17, 1882.

The honorable the SECRETARY OF THE INTERIOR:

SIR: I have the honor to acknowledge the receipt of your communication of the 16th instant, requesting to be informed whether, under the treaties and laws relating thereto, there is due, legally or equitably, to the Cherokee Indians any sum of money for the lands placed by them at the disposal of the United States by the treaty of 1866, for the settlement of friendly Indians thereon, over and beyond the amount paid to them, as shown in my letter of the 7th instant; and particularly whether by treaty or law they are entitled to be now paid the appraised value of the land thus placed at the disposal of the United States by said treaty.

In reply I have to state that, in order to give a correct and detailed answer to your inquiry, it will be necessary to refer to the various treaties and acts of Congress bearing upon the subject.

By the third section of the act of May 28, 1830 (4 Stat., 412), authorizing an exchange of land with the Indians residing in any of the States and Territories, and providing for their removal west of the Mississippi River, the President was authorized to assure the tribe or nation with which the exchange was made that the United States would forever secure and guarantee to them and their successors the country so exchanged with them; and, if they preferred it, that the United States would cause a patent or grant to be made and executed to them for the same: "Provided always, That such lands shall revert to the United States if the Indians become extinct or abandon the same."

By the first article of the treaty of February 14, 1833 (7 Stat., 415), "the United

States agree to possess the Cherokees and to guarantee it to them forever, and that guarantee is hereby pledged, of seven millions of acres of land." * * *

By the second article of the treaty of 1835 (7 Stat., 478), this seven million acres is described and bounded, and a further guarantee is made to the Cherokee Nation of a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven million acres, as far west as the sovereignty of the United States and their right of soil extend.

The treaty of 1828 between the United States of America and the United Mexican States (8 Stat., 374), confirms the validity of the limits described in the treaty with Spain of 1819, and in the second article the boundary line between the two countries is described and defined as follows: * * * Then, following the course of the Rio Roxo (or Red River) westward, to the degree of longitude 100 west from London, and 23 from Washington; then crossing the said Red River and running thence by a line due north to the river Arkansas. * * * Therefore, at the date of the treaty of 1835 with the Cherokees, the sovereignty of the United States extended to the one hundredth meridian, and hence the perpetual outlet guaranteed the Cherokees extends only that far. This outlet is what is now known as the Cherokee lands west of the Arkansas River, or rather west of the seven million acres mentioned in the treaty.

By article 3 of the treaty of 1835, the United States also agreed that the land ceded by the treaty of February 14, 1833, including the outlet, and those ceded by the treaty of 1835, should be included in one patent executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May 28, 1830.

Patent was issued December 31, 1838, to the Cherokees for their lands in the Indian Territory, under the provisions of articles 2 and 3 of the treaty of 1835, and in accordance with terms of the act of May 28, 1830.

The area of the Cherokee lands west of the 96° is 8,144,772.35 acres.

The United States Supreme Court, December term, 1872, in the case of *Holden vs. Joy* (17 Peters, 250), in referring to the clause in the patent to the Cherokees which provides that such lands shall revert to the United States if the Indians become extinct or abandon the same, said: "Strong doubts are entertained whether that condition in the patent is valid, as it was not authorized by the treaty under which it was issued. By the treaty the United States covenanted and agreed to convey the lands in fee-simple title, and it may well be held that if that condition reduces the estate to less than a fee it is void."

In the case of the United States *vs.* Ben. Reese, at the May term, 1879, of the United States district court for the western district of Arkansas, after reviewing the various treaties and laws and decisions of the courts with reference to the Cherokee lands in the Indian Territory, the court held that there is no limitation on the title conveyed by the United States to the Cherokees by the treaty of 1833, and that if said treaty was inconsistent with the act of 1830, it repealed so much of it as was inconsistent; that the language of the second article of the treaty of 1835 was a recognition of the cession of these lands, and that if they had already been ceded to the Cherokees by the treaty of 1833, that the agreement by the United States by the third article of the treaty of 1835, to give them a patent for these lands according to the provisions of the act of Congress of May 28, 1830, was a mere *nudum pactum*. "It was an attempt to place a restriction upon the title which had already passed, and which, according to the first section of the treaty of 1833, was to be evidenced by a patent."

The court, after discussing the question upon the supposition that the condition in the patent is valid, says: "This Indian title being a base, qualified, or determinable fee, with only the *possibility of reversion*, and not the right of reversion in the United States, all the estate is in the Cherokee Nation of Indians."

By the 2d article of the treaty of 1865 with the Comanches and Kiowas (14 Stat., 718), the United States set apart to said Indians a large tract of country, including the lands of the Cherokees west of the Cimarron River, embracing an area of 2,279,841.37 acres.

By the 2d article of the treaty of 1867 with the Kiowas and Comanches (15 Stat., 582), the tract of country now occupied by said Indians was set apart for them, bounded by the 9° on the east, the North Fork of Red River on the west, the Red River on the south, and on the north by the Washita River, and a line drawn from a stated point on said river to the North Fork of the Red River, which will be seen by reference to the map embraces no part of the Cherokee country.

By the 16th article of said treaty these Indians were given the right to hunt on "the lands south of the Arkansas River, formerly called theirs," which embraced a part of the Cherokee country, as will be seen by reference to the map.

As decided by the courts, in the cases referred to, all the title to the lands of the Cherokees set apart for the Kiowas and Comanches by the treaty of 1865, and on which the 16th article of the treaty of 1867 gave the latter the right to hunt, having passed to the Cherokees by the treaty of 1833, for which patent issued December 31, 1838, and as the government had no right to interfere with the title of the Cherokees

to these lands, except in cases purely political (see United States *vs.* Ben Reese, above referred to, and cases cited therein), it follows that the treaty of 1835 with the Kiowas and Comanches did not divest the Cherokee Nation of its title to said lands, nor vest any title thereto in the former named tribes.

So far as relates to the cession of the Cherokee lands, it was void for the reason that all the title the United States had passed by the Cherokee treaty of 1833.

The treaty of 1867, giving the Kiowas and Comanches the right to hunt on these lands, was not such an appropriation thereof as was contemplated by the 16th article of the Cherokee treaty of 1866 (14 Stat., 804).

Said 16th article reads as follows:

"The United States may settle friendly Indians in any part of the Cherokee country west of 96°^o, to be taken in a compact form in quantity not exceeding one hundred and sixty acres for each member of said tribe thus to be settled; the boundaries of each of said districts to be distinctly marked and the land conveyed in fee simple to each of said tribes, to be held in common or by their members in severalty, as the United States may decide.

"Said lands thus disposed of to be paid for to the Cherokee Nation at such price as may be agreed on between the said parties in interest, subject to the approval of the President, and if they should not agree, then the price to be fixed by the President.

"The Cherokee Nation to retain the right of possession and jurisdiction over all of said country west of 96°^o of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied."

This article does not change and modify the title of the Cherokees to their lands west of the 96°^o; this provision of the treaty simply gives the United States the right to settle friendly Indians in that part of the Cherokee country, and provides that the Cherokees will sell to such Indians a portion of their country, the area to be fixed according to the numbers of Indians so settled, who were to pay the Cherokees for the lands occupied at a price to be agreed upon by the parties in interest; and if they could not agree, the President was to fix the price.

Said article vests no title to these lands in the United States.

In accordance with the stipulations contained in said 16th article, and the provisions of the act of Congress approved June 5, 1872 (Stats., p. 228), the Osage and Kansas tribes of Indians were settled upon the tract of country lying between the 96° and the Arkansas River, the two tribes together occupying 1,570,196.30 acres, at 70 cents per acre, making an aggregate sum of \$1,099,137.41, which amount has been transferred on the books of the Treasury from the Osage fund to the credit of the Cherokees.

By the second article of the treaty with the Cheyennes and Arapahoes, proclaimed August 19, 1838 (15 Stat., 593), a tract of country west of the 96°^o, bounded by the Arkansas River on the east, the 37th parallel of north latitude, being the southern boundary line of the State of Kansas, on the north, and the Cimarron or Red Fork of the Arkansas River on the east and south, in which boundaries are included 4,294,734.68 acres of Cherokee lands west of the Arkansas River, was set apart for the undisturbed use and occupation of said Indians, and for such other friendly tribes or individual Indians as from time to time they might be willing, with the consent of the United States, to admit among them.

The Cheyennes and Arapahoes having represented that they did not understand the location of their reservation as defined by the treaty of 1863, and that they had never been upon said reservation and did not desire to go there, but that they desired to locate on the North Fork of the Canadian River, some sixty miles below Camp Supply, the reservation upon which they are now located, lying south of the Cherokee country, was set aside for them by Executive order, dated August 10, 1869.

The 5th section of the Indian appropriation act of May 29, 1872 (17 Stat., 190), authorized the President of the United States and the Secretary of the Interior "to make an appraisal of the Cherokee lands lying west of the ninety-sixth meridian of west longitude, and west of the land of the Osage Indians, in the Indian Territory, and south of the southern line of the State of Kansas, ceded to the United States by the Cherokee Indians under their treaty of July 19, 1866, for the settlement of friendly Indians, and report the same to Congress: *Provided*, That the Secretary of the Interior be, and he hereby is, authorized to negotiate with the Southern Cheyennes and Arapahoes for the relinquishment of their claim to the land ceded to them by the second article of the treaty of October 28, 1867, out of the cession made by the Cherokees in the treaty of July 19, 1866; such relinquishment, if obtained, to be in consideration of a sufficient and permanent location for the said Cheyennes and Arapahoes upon the lands ceded to the United States by the Creeks and Seminoles in the treaties of March 21 and June 14, 1836, and that the Secretary report the action taken by him under this provision to Congress at its next session."

Agreements were entered into under the provisions of this act, and were submitted to Congress by the department December 16, 1872, upon which no final action appears

to have been taken by that body. (See House Ex. Doc. No. 43, Forty-second Congress, third session. See also Senate Ex. Doc. No. 69, Forty-fifth Congress, second session.)

None of these agreements were ever put into practical execution, and the Cheyennes and Arapahoes still remain on the reservation set apart for them by Executive order of August 10, 1869.

It was a condition precedent to the relinquishment by the Cherokees of the right of possession of and jurisdiction over any of said lands that the same were to be sold and occupied.

It is true that a portion of said lands were to be set apart by the treaty of 1867 for the Cheyennes and Arapahoes, but these Indians alleged that a mistake had been made and that the country set apart for them was not that which they understood they were to have, and therefore they declined to accept the terms of the treaty so far as they relate to the reservation thereby created.

The Cherokees have never received payment from the Cheyennes and Arapahoes for these lands, and they have never been occupied by the last-named Indians, and therefore they have not been "thus sold and occupied," as contemplated by the 16th article of the Cherokee treaty of 1816.

The treaty with the Cheyennes and Arapahoes did not affect the title thereto, and it remains the same as it existed prior to the said treaty.

This view of the case appears to have been taken by Congress in the act of April 10, 1876 (19 Stat., 28), authorizing the sale of the Pawnee Reservation in Nebraska, and the settlement of said Indians in the Indian Territory. The fourth section of this act, after describing the reservation thereby set apart for the Pawnees, provides "that the terms of the sixteenth article of the Cherokee treaty of July 19, 1866, shall be complied with so far as the same may be applicable thereto," part of the lands set apart for the Pawnees being lands ceded to the United States by the Creek treaty of June 14, 1866, and the remainder being a portion of the Cherokee lands which by the treaty of 1868 the United States attempted to set apart for the Cheyennes and Arapahoes, and provided further "that the sum to be paid to the Cherokees by the Pawnees for such quantity of the land herein described as may be within the limits of the Cherokee country west of the ninety-sixth meridian of west longitude, shall not exceed seventy cents per acre." * * *

The select committee of the Senate on the removal of the northern Cheyennes, &c., appear to have taken the same ground. The committee in their report, in speaking of the lands set apart for these Indians by Executive order of August 10, 1869, say that "it was never intended to be more than a temporary abiding place for these tribes, where they were to stop until the United States could extinguish the claim of the Cherokees to the lands included in the treaties with the Arapahoes and Cheyennes." (See Senate report No. 708, Forty-sixth Congress, second session, page 2.)

The appraised value of the Cherokee lands west of the Arkansas River, as fixed by the President, June 23, 1879, under the act of 1872 (17 Stat., 190), and the act of 1876 (19 Stat., 120), is as follows, viz:

6,344,572.51 acres, at 47.49 cents per acre.....	\$3,013,037 48 ⁵⁰ / ₁₀₀
230,014.04 acres, at 70 cents per acre.....	161,009 82 ⁸⁰ / ₁₀₀
<hr/>	<hr/>
6,574,486.55 Total.....	3,174,047 31 ³⁰ / ₁₀₀

Of this amount, 4,292,661.15 acres set apart for the Cheyennes and Arapahoes by the treaty of 1868, but not occupied by them, as hereinbefore stated, were appraised as follows, viz:

4,062,647.11 acres, at 47.49 cents.....	\$1,929,351 11 ²⁵ / ₁₀₀
230,014.04 acres, at 70 cents.....	161,009 82 ⁸⁰ / ₁₀₀
<hr/>	<hr/>
4,292,661.15 acres. Total.....	2,090,360 94 ⁰⁵ / ₁₀₀

and 2,281,925.40 acres ceded to the Kiowas and Comanches by the treaty of 1865, but which cession conveyed no title, as the United States had none, at 47.49 cents per acre, making \$1,083,686.37²⁵/₁₀₀.

In view of the foregoing facts, I conclude that the Cherokees have no claim under existing law or treaty, either legal or equitable, to payment for their lands west of the Arkansas River, other than for such portions thereof as have been sold to, and are occupied by, friendly Indians.

Of the Cherokee lands west of the Arkansas River, the following dispositions have been made, viz:

Under the provisions of the act of Congress approved April 10, 1876 (19 Stat., 28), there was set apart for the Pawnees 230,014.04 acres, at 70 cents per acre, making \$161,009.82⁸⁰/₁₀₀.

There has been assigned to the Poncas 101,894.31 acres, at 47.49 cents per acre,

which amounts to \$48,389.60 $\frac{78}{100}$, to the Nez Percés 90,710.89 acres, which, at the same price, amounts to \$43,078.60 $\frac{17}{100}$, and to the Ottoes and Missourias under the act of March 3, 1881 (21 Stat., 380), 129,113.20 acres, at 47.49, equals \$61,315.85 $\frac{87}{100}$.

Of the Cherokee lands west of the Arkansas River there has, therefore, been assigned to friendly Indians 551,732.44 acres, at an aggregate value of \$313,693.89 $\frac{62}{100}$.

By the act approved June 16, 1880 (Pamphlet Laws, p. 248), it is provided "that the sum of \$300,000 is hereby appropriated, to be paid into the treasury of the Cherokee Nation out of the funds due said nation for its lands in the Indian Territory west of the Arkansas River, as per estimates of the Secretary of the Interior."

By the deficiency act of March 3, 1881 (21 Stat., 422), \$50,000 was appropriated for the purchase of 101,894 acres of land occupied by the Poncas in the Indian Territory. Of this amount \$48,389.46 has been carried to the credit of the Cherokees, being at the rate of 47.49 cents per acre, the price fixed by the President as before stated, making a total of \$348,389.46.

The Cherokees have, therefore, received \$34,595.70 in excess of the amount due them for their lands west of the Arkansas River, which has been appropriated under the provisions of the 16th article of the treaty of 1866. It may be proper to add, however, that the Cherokees still have, as the treaty provides, the possession and jurisdiction of all the lands except those assigned as above stated, and have been and are now receiving rents from the same.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

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