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### Agreement with Cheyenne and Aprapahoe Indians.

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H.R. Rep. No. 3441, 51st Cong., 2nd Sess. (1891)

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## AGREEMENT WITH CHEYENNE AND ARAPAHOE INDIANS.

JANUARY 13, 1891.—Committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

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Mr. PERKINS, from the Committee on Indian Affairs, submitted the following

### REPORT:

[To accompany H. R. 13102.]

Your committee, to whom was referred the agreement made and concluded by the Cherokee commission with the Cheyenne and Arapahoe tribes of Indians, during the month of October, 1890, for the cession of certain lands to the United States; have had the same under consideration, and make the following report :

By the terms of a treaty concluded October 28, 1867, with the said Cheyenne and Arapahoe tribes, a tract of land embracing about 4,300,000 acres, situated on what is known as the Cherokee outlet, west of the Arkansas River in the Indian Territory, was ceded to and set apart as a reservation for said tribes.

By the same treaty there were also ceded to said tribes and included in said reservation about 700,000 acres, formerly owned by the Creek Nation.

On account of the proximity of white people to this reservation the Indians were slow in coming in and making settlement thereon, whereupon the President, by executive order of date August 10, 1869, set apart for their use and occupancy another reservation in the Indian Territory (the one they now occupy) embracing about 4,000,000 acres.

By the first article of the present agreement, the said Cheyenne and Arapahoe tribes cede, convey, transfer, relinquish, and surrender to the United States, all their claim, title, and interest of every kind and character in and to the reservation set apart to them by the said treaty of October, 1867.

By second article they cede, convey, transfer, relinquish and surrender all their claim, title, and interest in and to the land embraced in the reservation set apart for their use and occupancy by the said executive order of August 10, 1869, subject to the allotment of land in severalty to the members of said tribes, as provided in said agreement.

The third article provides that out of the lands ceded, conveyed, transferred, relinquished, and surrendered by article 2, each member of the Cheyenne and Arapahoe tribes of Indians over the age of eighteen years shall have the right to select for himself or herself 160 acres of land, to be held and owned in severalty, and that the father, or if he be dead, the mother, if members of either of said tribes of Indians, shall have the right to select a like amount of land for each of his or her children under the age of eighteen years, and that the Commissioner of Indian Affairs, or some one by him appointed for that purpose, shall

select a like amount of land for each orphan child belonging to either of said tribes under the age of eighteen years.

By article 4 it is agreed that the land in said reservation shall be classed as bottom land and grazing land, and that in making selection of land to be allotted in severalty, as aforesaid, each and every Indian shall be required to take at least one-half in area of his or her allotment of grazing land. It also provides that the land occupied for military, agency, school, school-farm, religious, or other public uses, or in sections 16 and 36 in each Congressional township, shall be exempt from allotment, except in cases where any Indian has heretofore made improvements upon and now uses and occupies a part of said sections 16 and 36.

It also exempts from allotments a tract of land occupied and claimed by the Wichita and affiliated bands of Indians. It is further provided that said sections 16 and 36 shall not become subject to homestead entry, but shall be held by the United States and finally sold for public school purposes. Provision is also made for religious societies or other organizations now occupying any portion of said reservation for religious or educational work among the Indians.

Article 5 provides that all allotments thereunder shall be selected within ninety days from the ratification of the agreement by Congress, provided that the Secretary of the Interior may extend the time for making such allotments, and that if any now entitled to allotments shall fail or refuse to make his or her selection, then the allotting agent in charge of the work shall, within the next thirty days after said time, make allotments to such Indians, and shall have the same force and effect as if selections were made by the Indians.

Article 6 provides that when said allotments of lands shall have been selected, and approved by the Secretary of the Interior, the titles thereto shall be held in trust for the allottees respectively, for a period of twenty-five years, in the manner and to the extent provided for in the act of February 8, 1887 (25 Stats., 388), and that at the expiration of said period, titles thereto shall be conveyed in fee simple to the allottees or their heirs free from all incumbrances.

Article 7 provides that, as a further and only additional consideration for the cession of territory and relinquishment of titles, claim, and interest in and to the lands, as aforesaid, the United States will pay to the Cheyenne and Arapahoe tribes of Indians \$1,500,000, as follows:

Two hundred and fifty thousand dollars in cash, to be distributed per capita among the members of said tribe within sixty days after the agreement shall be ratified by Congress; \$250,000 to be paid out for said Indians under the direction of the Secretary of the Interior, and the remaining \$1,000,000 to be retained in the Treasury of the United States placed to the credit of the said Indians, and while so retained to draw 5 per cent. interest per annum, to be paid to said Indians per capita annually.

It is further provided that nothing contained in said article shall be held to affect in any way any annuities due said Indians under existing laws, agreements, or treaties.

By the eighth article it is agreed that if any member of either of said tribes has, in pursuance of any laws or of any rules or regulations of the Department, taken an allotment, such allotment at the option of the allottee shall be confirmed and governed by all the conditions attached to allotments taken under this agreement.

Article 9 provides that the agreement shall take effect whenever it shall be ratified by the Congress of the United States.

According to the reports of the agent of the tribes and the Commis-

sion there are 618 male adult Indians, more than three-fourths of whom signed said agreement as required by the provisions of the treaty of 1867.

The agreement is in proper form, and was properly executed.

The price to be paid seems to be fair and reasonable, both to the Government and to the Indians.

Your committee therefore recommend that the agreement as made with said tribes be ratified by the enactment of the following bill:

A BILL to ratify and confirm an agreement with the Cheyenne and Arapahoe tribes of Indians in Oklahoma Territory, and to make appropriations for carrying the same into effect.

Whereas David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, duly appointed commissioners on the part of the United States, did, on the — day of October, eighteen hundred and ninety, conclude an agreement with the Cheyenne and Arapahoe tribes of Indians in Oklahoma Territory, formerly a part of the Indian Territory, which said agreement is as follows, to wit:

"Articles of agreement made and entered into at Darlington, in the Indian Territory, on the — day of October, A. D. eighteen hundred and ninety, by and between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, commissioners on the part of the United States, and the Cheyenne and Arapahoe tribes of Indians, in the Indian Territory.

#### " ARTICLE I.

"The said Cheyenne and Arapahoe tribes of Indians hereby cede, convey, transfer, relinquish, and surrender forever and absolutely, without any reservation whatever, express or implied, all their claim, title, and interest of every kind and character, in and to the lands embraced in the following described tract of country in the Indian Territory, to-wit: A tract of country west of the ninety-sixth degree of west longitude, bounded by the Arkansas River on the east, the thirty-seventh 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 west and south.

#### " ARTICLE II.

"Subject to the allotment of land in severalty to the individual members of the Cheyenne and Arapahoe tribes of Indians, as hereinafter provided for and subject to the conditions hereinafter imposed, for the considerations hereinafter mentioned, the said Cheyenne and Arapahoe Indians hereby cede, convey, transfer, relinquish, and surrender forever and absolutely, without any reservation whatever, express or implied, all their claim, title, and interest, of every kind and character, in and to the lands embraced in the following described tract of country in the Indian Territory, to-wit:

Commencing at a point where the Washita River crosses the ninety-eighth degree of west longitude as surveyed in the years eighteen hundred and fifty-eight, and eighteen hundred and seventy-one; 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 Cimmaron 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 fourteenth, eighteen hundred and sixty-six, 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 twenty-first, eighteen hundred and sixty-six, with the Seminole Indians, to the one hundredth degree of west longitude; thence south on the line of said one hundredth degree, to the point where it strikes the north fork of the Red River; thence down said north fork of the Red River, to a point where it strikes the north line of the Kiowa and Comanche Reservation; 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; and all other lands or tracts of country in the Indian Territory, to which they have or may set up or allege any right, title, interest, or claim whatsoever.

#### " ARTICLE III.

"Out of the lands ceded, conveyed, transferred, relinquished, and surrendered by Article II hereof, and in part consideration for the cession of lands named in the preceding article, it is agreed by the United States that each member of the said Cheyenne and Arapahoe tribes of Indians over the age of eighteen years shall have the right to select for himself or herself one hundred and sixty acres of land, to be held and owned in severalty, to conform to legal surveys in boundary; and that the

father, or, if he be dead, the mother, if members of either of said tribes of Indians, shall have a right to select a like amount of land for each of his or her children under the age of eighteen years; and that the Commissioner of Indian Affairs, or some one by him appointed for the purpose, shall select a like amount of land for each orphan child belonging to either of said tribes under the age of eighteen years.

“ARTICLE IV.

“It is further agreed that the land in said reservation shall be classed as bottom land and grazing land; and, in making selection of lands to be allotted in severalty as aforesaid, each and every Indian herein provided for shall be required to take at least one-half in area, of his or her allotments, of grazing land. It is hereby further expressly agreed that no person shall have the right to make his or her selection of land in any part of said reservation that is now used or occupied for military, agency, school, school-farm, religious, or other public uses, or in sections sixteen and thirty-six in each Congressional township, except in cases where any Cheyenne or Arapahoe Indian has heretofore made improvements upon and now uses and occupies a part of said sections sixteen and thirty-six such Indian may make his or her selection within the boundaries so prescribed so as to include his or her improvements, or in that part thereof now occupied and claimed by the Wichita and affiliated bands of Indians described as follows, viz: Commencing at a point in the middle of the main channel of the Washita River, where the ninety-eighth meridian of west longitude crosses the same, thence up the middle of the main channel of the said river to the line of ninety-eight degrees forty minutes west longitude, thence up said line of ninety-eight degrees forty minutes due north to the middle of the main channel of the main Canadian River, thence down the middle of the main Canadian River to where it crosses the ninety-eight meridian; thence due south to the place of beginning.

“It is further agreed that wherever in said reservation any Indian, entitled to take lands in severalty hereunder, has made improvements, and now uses and occupies the land embracing such improvements, such Indian shall have the undisputed right to make his or her selection within the area above provided for allotments, so as to include his or her said improvements.

“It is further agreed that said sections sixteen and thirty-six in each Congressional township in said reservation shall not become subject to homestead entry, but shall be held by the United States and finally sold for public school purposes. It is hereby further agreed that wherever in said reservation any religious society or other organization is now occupying any portion of said reservation for religious or educational work among the Indians, the land so occupied may be allotted and confirmed to such society or organization; not, however, to exceed one hundred and sixty acres of land to any one society or organization so long as the same shall be so occupied and used, and such land shall not be subject to homestead entry.

“ARTICLE V.

“All allotments hereunder shall be selected within ninety days from the ratification of this agreement by the Congress of the United States, provided the Secretary of the Interior, in his discretion, may extend the time for making such selection, and should any Indian entitled to allotments hereunder fail or refuse to make his or her selection of land in that time, then the allotting agent in charge of the work of making such allotments shall, within the next thirty days after said time, make allotments to such Indians, which shall have the same force and effect as if the selection were made by the Indian.

“ARTICLE VI.

“When said allotments of land shall have been selected and taken as aforesaid, and approved by the Secretary of the Interior, the titles thereto shall be held in trust for the allottees, respectively, for the period of twenty-five years, in the manner and to the extent provided for in the act of Congress entitled: ‘An act to provide for the allotment of land in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes. Approved February eighth, eighteen hundred and eighty-seven. And at the expiration of said period of twenty-five years the titles thereto shall be conveyed in fee simple to the allottees, or their heirs, free from all incumbrances.

“ARTICLE VII.

“As a further and only additional consideration for the cession of territory and relinquishment of title, claim, and interest in and to lands as aforesaid the United States agrees to pay to the Cheyenne and Arapahoe tribes of Indians one million and five hundred thousand dollars, as follows: Two hundred and fifty thousand dollars in

cash, to be distributed per capita among the members of said tribes within sixty days after this agreement shall be ratified by the Congress of the United States; two hundred and fifty thousand dollars to be paid out for said Indians under the direction of the Secretary of the Interior, and the remaining one million dollars to be retained in the Treasury of the United States, placed to the credit of the said Indians, and while so retained, to draw five per centum interest per annum, to be paid to said Indians per capita annually.

"Nothing herein contained shall be held to affect in any way any annuities due said Indians under existing laws, agreements, or treaties.

"ARTICLE VIII.

"It is further agreed that wherever in said reservation any member of either of said tribes has in pursuance of any laws or under any rules or regulations of the Interior Department, taken an allotment, such an allotment, at the option of the allottee, shall be confirmed and governed by all the conditions attached to allotments taken under this agreement.

"ARTICLE IX.

"This agreement shall have effect whenever it shall be ratified by the Congress of the United States.

"In witness whereof the said commissioners on the part of the United States have hereunto set their hands, and the undersigned members of said tribes, for themselves and their tribes, set their hands the day and year first above written.

"DAVID H. JEROME,  
 "ALFRED M. WILSON,  
 "WARREN G. SAYRE,  
 "Commissioners."

Left-hand, his x mark, and five hundred and sixty-four others: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That said agreement be, and the same is hereby, accepted, ratified, and confirmed.

SEC. 2. That for the purpose of making the allotments provided for in said agreement, including the pay and expenses of the necessary special agent or agents hereby authorized to be appointed by the President for the purpose, and the necessary surveys, there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of fifteen thousand dollars, or so much thereof as may be necessary.

SEC. 3. That for the purpose of carrying the provisions of this act into effect there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one million five hundred thousand dollars, of which amount the sum of one million dollars shall be placed in the Treasury to the credit of the Cheyenne and Arapahoe Indians, parties to the foregoing agreement, to bear interest at the rate of five per centum per annum, which interest shall be paid to them per capita annually; the balance of five hundred thousand dollars to be expended as provided for in article seven of said agreement.

SEC. 4. That whenever any lands within the Territory of Oklahoma or within any tract which may hereafter be added thereto, shall by operation of law or proclamation of the President of the United States be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law (except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply): *Provided, however,* That each settler, under and in accordance with the provisions of said homestead laws, shall before receiving a patent for his homestead, pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment exceed one dollar and twenty-five cents per acre, and such person, having complied with all the laws relating to such homestead settlement, may at his option receive a patent therefor at the expiration of twelve months from date of settlement upon said homestead, and any person otherwise qualified who has attempted to but for any cause failed to secure a title in fee to a homestead under existing law, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make a homestead entry upon any of said lands.