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LETTER
OF
THE SECRETARY OF THE INTERIOR

TO THE

Chairman of the Committee on Indian Affairs, in relation to the Cherokee treaty pending before the Senate, and the claim of the Cherokees to territory west of the one hundredth meridian.

MARCH 28, 1870.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 24, 1870.

SIR: General Parker and myself have this morning had a conference with the President in regard to the Cherokee treaty pending before the Senate, and, without knowing what amendments or modifications your committee might have determined upon, I beg leave to present briefly the view taken by the President in reference to it.

He objects to the recognition of the Indian treaty by the extension of what is known as the "outlet," mentioned in the old treaty of 1835, west of the one hundredth meridian of longitude, and inclines to agree with my own opinion and that of General Parker, that there is no reasonable foundation for the Cherokees' claim to any territory west of the one hundredth meridian. He thinks, also, that the modification of the provisions of the treaty of 1866, in regard to the price to be paid for the neutral lands, is very objectionable; also, the provisions for the recognition of claims of the Cherokees to lands in Arkansas, and east of the Mississippi river, and the provisions for continuing commissions to negotiate such claims. He has agreed with us in the opinion that we ought to define, once for all, the diminished Cherokee reservations, and to lump all claims of every description whatever, national and individual, on the part of the Cherokees, whether to lands or money, for whatever purpose, into one simple amount, and be rid of them, so that there may be nothing whatever to negotiate in the future, or to make the occasion for attorneys and agents of the tribe besieging the Executive or the departments in regard to such matters hereafter.

If this were done by a few simple and proper articles of an amendatory treaty, we should not be disposed to quarrel with the amount named in the treaty under consideration, to wit: three million five hundred thousand dollars, (\$3,500,000,) but should also desire that no part of it be distributed per capita, or wasted in exorbitant fees for supposed services, and should wish to have the whole sum, as nearly as possible, made an educational fund for the tribe so long as they may have occasion for it. Without such a general and final settlement, the amount to be paid for the land would seem unreasonably great.

The President has desired me to communicate to you these suggestions, and to say that he would prefer the treaty should not be ratified in its present shape. It would, however, give us great pleasure to cooperate with your committee in putting its provisions into a thoroughly satisfactory form to effect the purposes intimated above.

Permit me to express my own satisfaction with the proviso recently introduced by you, that the money paid into the trust fund of these Indians should be made a recorded debt in their favor on the Treasury books, rather than put into bonds, which are more or less liable to loss by theft or accident. I believe the same rule might easily be applied to the whole Indian trust fund, and I have no doubt your own experience will accord with mine that its existence in its present form is a source of unnecessary anxiety and responsibility to the head of this department.

I shall be glad to meet you, if you should think it worth while, to consult more fully in reference to this treaty, and shall be very happy to receive your suggestions in the matter.

Very respectfully, your obedient servant,

J. D. COX, *Secretary.*

Hon. JAMES HARLAN,

*Chairman of Committee on Indian Affairs,
Senate of the United States.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 1, 1869.

SIR: In accordance with your request of the 27th ultimo, that I furnish the Committee on Indian Affairs an estimate of the quantity of lands embraced within the limits of the Cherokee country west of the ninety-sixth degree of west longitude, south of Kansas, the area of the "outlet," the quantity in the State of Kansas, and the character of the title by which said lands are held by the Cherokee Indian nation, I have the honor to submit the following statement:

1. The quantity of the Cherokee lands south of Kansas, between the ninety-sixth and ninety-eighth degrees of longitude west of Greenwich, is \$4,247,347 acres.

2. Between the ninety-eighth and one hundredth degrees of longitude west of Greenwich, 4,247,347 acres.

3. In the State of Kansas a strip of about two miles in width, adjoining the south boundary of the State, and extending west from Neosho River to the one hundredth meridian, two hundred and eighty-eight miles, is estimated to contain 368,640 acres.

It is proper that I should observe, in regard to the anomalous condition of this strip of land, so far as the ownership thereof is concerned, the land, by the seventeenth article of the Cherokee treaty of July 19, 1866, (United States Statutes, vol. 14, page 804,) was evidently intended to have been ceded in trust by the Cherokees to the United States, to be sold for their benefit; but owing to reference therein made to the fourth article of the prior treaty with them of 1835, which stipulated quite different, and altogether an irrelevant matter, the cession of this strip of land has been held by the department as imperfect, and requiring an amendatory treaty with the Cherokees in that respect. No supplementary treaty having been concluded, so far as this office is advised, the question as to who owns the strip of land referred to appears to be in doubt.

The character of title of the Cherokee lands under the three foregoing heads, estimated to amount to 8,863,334 acres, as well as that portion of

their lands south of Kansas, and lying east of the ninety-sixth degree of west longitude, containing an estimated area of 4,710,801 acres, and aggregating the quantity of 13,574,135 acres, was derived by patent in fee simple from the United States under date of December 31, 1838, by virtue of the provisions of treaties with the Cherokees of May 6, 1828; act of Congress of May 28, 1830; stipulations in treaty of February 14, 1833, and the second and third articles of treaty of December 29, 1835.

4. The area of the "outlet" which lies in Indian Territory between the 100th and 103° 30' of west longitude contains 4,273,893 acres, and does not appear to be owned by the Cherokees.

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

JOS. S. WILSON,
Commissioner.

Hon. JAMES HARLAN,

Acting Chairman Committee Indian Affairs, U. S. Senate.