

Andrew Jackson's Choctaw Removal Treaty Counterproposal

Proposed.

Articles of a Treaty between the United States of America, and the Choctaw Nation of Red People.

Whereas the Choctaw Nation of Red People have always lived under such laws as were judged and admitted in their National Councils to be just and equitable, and suited to freemen, and Whereas the General Assembly of the State of Mississippi, has extended all the laws of said State to all the persons and property within the chartered limits of said State, and the President of the United States has expressly told us that he cannot protect the Choctaw people from the exercise of Mississippi law, but that he will be under the necessity of sustaining said State in the exercise of her laws. Now therefore we the Choctaw Nation of Red People in National Council assembled have determined that we never will submit to, or be governed by laws in the enactment of which we are not permitted to participate, and as the Constitution of the State of Mississippi does not secure the representation of Red People in the Legislative Councils of said State, and that we may continue under our own laws in peace with the United States, and the State of Mississippi: We have further determined to propose to sell all our claim to lands East of the Mississippi River, and emigrate to the Choctaw lands West of said River, on the following conditions:

Article 1. The United States shall secure the said Choctaw Nation of Red People the perpetual peaceful possession of all that tract of country known, and described in a Treaty, as the Choctaw lands west of the Mississippi River embraced in the following lines and limits, viz: beginning on the Arkansa River one hundred paces East of Forth Smith, and running up said River to the mouth of the Canadian Fork, thence up said fork to its source, thence a due south course to Red River, then down said Red River until it reaches the Western boundary of Arkansa Territory, and thence North with said line to the beginning on the Arkansa River, which last line it is expressly stipulated shall be the perpetual and permanent boundary line between the Territory or State of Arkansa, and the Choctaw Nation. And so soon after the ratification of this Treaty, as Congress shall authorize it, a Patent shall be issued by the President of the United States, granting, and transferring to the said Choctaw Nation of Red People a full and perfect title

in fee simple to all the land within the before described limits, and forever warranting and defending the peaceable possession of the same to the Choctaw Nation and their descendants.

Article 2. And in consideration of the provisions contained in the several articles of this treaty, the Choctaw Nation of Indians consent and hereby cede to the United States, the entire Country which they own and possess within the State of Mississippi, as is defined within their recognized limits and boundaries; and agree within two years from the date of this instrument, to remove beyond the Mississippi River; and will so arrange their removal, that as many as possible of their people, not exceeding one half of the whole number, shall depart during the Spring of 1831, while the waters and rivers are in order for their transportation—the residue to follow during the succeeding Spring, whereby a better opportunity will be afforded the Government to extend to them the aid and care which it is so desirable should be extended, in conveying them to their new homes.

Article 3. The Government and people of the United States, are hereby bound and obligated, to secure to the said Choctaw Nation of Red People the jurisdiction and government of all the persons and property that may be within the limits pointed out in the first article, so that no territory or State, shall ever have a right to pass laws for the government of the Choctaw Nation of Red People, and their descendants; and that no part of the above described land shall ever be embraced in any territory or State; but that the United States shall forever defend said Choctaw Nation from and against all laws, except such as from time to time may be enacted in their own National Council, not inconsistent with the Constitution, Treaties, and laws of the United States; and except such as may be, and which have been enacted, by Congress, to the extent that Congress under the Constitution, are required to exercise a legislation over Indian Affairs.

Article 4. The United States are hereby obligated, and bound to protect the Choctaws from foreign enemies, on the same principles that the Citizens of the United States are protected, that whatever would be a legal demand upon the United States for self defence, or for spoliations committed by an enemy on a Citizen of the United States, shall be equally binding in favor of the Choctaws; and in all cases when the Choctaws shall be called upon by a legally authorized officer of the United States to fight an enemy, such Choctaws shall receive such pay and other emoluments, as the Citizens of the United States receive in such cases: Provided no war shall be undertaken, or prosecuted by said Choctaw Nation, but by declaration made in full Council, and to be approved by the United States; unless it be in self

defence against an enemy marching into their Country, in which case, they shall defend themselves until the United States are advised thereof. It is furthermore agreed that the United States will acknowledge, such persons as Principal and Subordinate Chiefs of the Nation, as by the constituted authorities of the Nation may be appointed.

Article 5. Should a Choctaw commit any act of violence upon the person or property of a Citizen of the United States, or join any war party against a neighboring tribe of Indians without the authority in the preceding article, and except to oppose an actual or threatened invasion, such person so offending shall be delivered up to an officer of the United States, if in the power of the Choctaw Nation, that such offender may be punished, as may be provided in such cases by the laws of the United States; but if such offender is not within the control of said Choctaw Nation, then said Choctaw Nation shall not be held responsible for the injury done by said offender.

Article 6. All acts of violence committed upon persons and property of the people of the Choctaw Nation, either by Citizens of the United States, or neighboring tribes of Red People shall be referr'd to the agent, by him to be referr'd to the President of the United States, who shall examine into such cases, and see that every possible degree of justice is done to said injured party of the Choctaw Nation.

Article 7. Offenders against the Laws of the United States, or any individual State, shall be apprehended and delivered to the agent or any duly authorized officer, where such offender may be found in the Choctaw Country, having fled from some part of the United States: but in all such cases, application must be made to the agent, or Chief, and the expense of his apprehension and delivery provided for.

Article 8. Any Citizen of the United States, who may be ordered from the Nation by the agent and constituted authorities of the Nation, and refusing to obey, or returning to the Nation without the consent of the aforesaid persons, shall be subject to such pains, and penalties, as may be provided by the Laws of the United States, in such cases. All Citizens of the United States travelling peaceably and under the authority of the laws of the United States, shall be under the care and protection of the Nation.

Article 9. The United States will aid the Choctaw Nation, when called upon, to suppress any insurrection of any part of the Choctaws against the constituted authorities of said Nation, so that peace and harmony may be preserved amongst them; and the United States shall be particularly obliged to assist in excluding ardent Spirits from said Nation unless for purposes of

real necessity.

Article 10. No person shall expose goods, or other articles for sale as a trader without a written permit from the Constituted authorities of the Nation, or authority derived from the United States, under the penalty of forfeiting all such articles; and the said constituted authorities shall not license any person to trade in the Nation, unless he resides in, and is subject to all the laws of the Nation.

Article 11. It is understood and agreed that the Navigation of Red River and Arkansa shall remain free to the Choctaws, and that they shall be subject to no higher toll or rate of duty than Citizens of the United States may be at any time subject. The United States agree further, that they will establish one or more post offices within the territory of the Choctaws; and may establish such military and post roads as shall be considered necessary.

Article 12. All intruders shall be removed, by the United States, from the Choctaw lands, West of the Mississippi, at any time when so requested to be done by the constituted authorities of said Nation, after the ratification of this Treaty. Private property shall be always respected, and not taken for the use of the United States, without fully compensating the rightful owner for the same.

Article 13. As it is necessary that the Choctaws should have confidence in the United States agent among them, and attending to the complaints of Choctaws against Citizens of the United States, therefore, the United States agent shall only hold his office for four years if not sooner removed; but may be reappointed. In all cases the President of the United States, shall remove the agent, and appoint some other person on the petition of the constituted authorities of the Nation, he being satisfied that there is sufficient cause therefor. It is further consented that the wish of the constituted authorities shall be respected in the appointment of an agent, immediately on the ratification of this Treaty, who shall be the only United States agent for the Choctaw Nation, for the time being, and said agent shall fix his residence in the Nation; and all future agents shall reside at the agency, so long as the United States shall conceive it advisable to keep one. It is further stipulated that whenever a Choctaw shall be delivered to the United States, as an offender, that the United States agent shall employ Counsel to defend said offender, and in the absence of the agent, the Judge, before whom said accused person shall be tried, shall appoint Counsel for the accused person, which Counsel shall be paid by the United States.

Article 14. Any and all Choctaws wishing to continue on the land where they now reside, shall be secured in a full section, or Six hundred and

forty acres of land, to each family in fee simple. But this provision shall not attach except to such as shall continue to reside on the same for five years from the ratification of this treaty; and who shall have signified a determination to become Citizens of the State of Mississippi.

Article 15. The United States, to afford to the Choctaw Nation of Indians an earnest of their good feelings, and at the same time to enable them the better to settle themselves to the West, agree, that as full compensation for such improvements abandoned as may add increased value to the land, which shall be assessed, by one or more Commissioners, to be appointed by the President, they will pay, for the term of three years, by which time it is hoped they will be enabled to render their farms productive, 75,000\$, annually, to commence from the date of removal, which said annuity shall be apportioned amongst those who shall leave improvements, and agreeably and in proportion to the respective value of the same. The United States agree further to pay them the sum of 10,000\$ for the purpose of erecting one or more houses of public worship—also 10,000\$ for erecting School houses, 5,000\$, for a Council House—2,000\$ for a house for the Principal Chiefs, of the Nation: and 10,000\$, annually, for ten years to be applied under the direction of the President for the purpose of educating the Children of the Choctaws. And as it is hoped that the Chickasaw Nation will be disposed to unite to the West with their Choctaw neighbors; in which event it will be desirable to place them near to the homes of their ancient friends and neighbors, the Choctaws; it is hereby agreed, that on their consenting to remove, the United States shall have authority to assign to them a home within the limits of the Choctaw Country, West of the Mississippi, not exceeding the quantity of acres owned by them in the State of Mississippi; and as consideration for this, the United States will pay the Choctaw Nation the sum of 15,000 dollars, for twenty years; and will extend the Choctaw West boundary, directly west, over any land they now own, and may have a right to convey, to the extreme western limits of the lands of the United States—Or if preferr'd by both Nations, the Chickasaws to be adopted into the Choctaw Nation, with all the rights and privileges which belong to the people of the Choctaws.

Article 16. It is agreed, that the United States shall support the Indians with sound and wholesome food while they shall be encamped, by the agent of the United States, previous to their departure for their new homes; also during the time they may be engaged in removing; and for twelve months after their arrival—and to enable the Government the better to comply with this article, they stipulate, to purchase at valuation price, the

hogs, and cattle, of the Indians which they may be able to supply, for this purpose. Such as may not be wanted, may be travelled to their new homes, to be supported on their way, far as it may be practicable to obtain supplies, at the expense of the United States. The tools, and personal property of Indians left behind, if deposited at one or two designated points, by the agent, shall be sold by the agent, or some authorized persons, and the proceeds thereof, be hereafter paid over, for the benefit of the Indians who may have left them. The United States consent to furnish at proper points such wagons and Steam boats as the President may conceive necessary for the removal.

Article 17. According to a former Treaty the United States, are obligated to furnish every man emigrating to the West, with a good Rifle Gun, and ammunition, together with a blanket, and brass or copper Kettle. These articles shall be furnished to every warrior; and each farmer shall be furnished with an axe, hoe, and plough; and each family shall be furnished with a Spinning wheel, and Cards, and each five families with a loom, so soon as their future places of residence shall be prepared for them; The United States, will also furnish One Blacksmith Shop, at the expense of the United States, on the principle of the Shop now furnished the Nation, for a period of 20 years.

Article 18. To enable the Choctaws to defend themselves in their new home, each warrior shall, annually, be furnished for four years, by the United States, with a reasonable supply of good Rifle powder, and lead; but while the new homes of the Choctaws are preparing and the people emigrating, or preparing to emigrate the United States shall station troops on, or near the Choctaw line, or other situation as the President may designate, so that the Choctaws may safely settle until they feel themselves sufficiently strong to protect themselves; but at all times, the United States, shall assist the Choctaws if invaded or threatened with an invasion—Further it is stipulated that the Choctaw Nation shall be furnished with a good four or six pound piece of Artillery, well mounted, together with a supply of powder and ball.

Article 19. As the Captains will have much trouble for the first four years of keeping their people in order and settling them, the United States shall furnish each Captain, the number of whom shall not exceed one hundred, with a good suit of Clothes, and a substantial broad sword, as an outfit, and shall pay each Captain fifty dollars, annually, for the first four years; also the constituted authorities of the Nation shall appoint fifty men, as rangers, who shall occupy and hold the grade of Captains, and each of

them shall receive the outfit as aforesaid, and also the salary of a Captain, as aforesaid, for the first four years. These rangers shall execute the orders of the Chiefs, and travel as messengers. They shall also be liable to be called into the Service of the United States by the President, and when thus employed shall receive at the rate of one hundred dollars additional, per annum. The principal Chief when in the Military service of the United States, by authority of the President shall have the rank and pay of a Colonel.

Article 20. All annuities heretofore secured to the Choctaw Nation, and which have not already become due, and payable, shall cease from the date of the ratification of this Treaty, with the exception of 6000 Dollars, secured under the 2nd. Article of the Treaty of the 20th. of January, 1825, concluded at Washington, which shall continue for ten years, from the date of the ratification of this Treaty, and no longer. It is also covenanted and agreed, that for the purposes and objects secured by the provisions of this Treaty, and with a view fully to satisfy the Choctaw Nation, of the kind feelings entertained towards them, in addition to other sums herein stipulated for, the United States, agree to pay to the Choctaw Nation 50,000 Dollars, annually, for 40 years, of which 7,000\$, a year shall be applied to the use, and purposes of a Common School, or Schools, to be established west of the Mississippi—under the direction of the Secretary of War—1,500 Dollars, annually, under the same direction, for two or more Teachers of the Christian Religion of different denominations, and the residue to be apportioned by the agent amongst the different families of the Indians, for their particular use and benefit except 1,250 Dollars, which shall be paid, annually, to the principal Chiefs. It is agreed, further, that in all matters of doubtful construction under this Treaty, it shall be construed most favorably towards the Choctaws. It is further agreed, that no one shall be disturbed or interrupted on account of his religious opinions.

Article 21. Of the land ceded, East of the Mississippi River, the United States will cause 50 Sections to be laid off, & surveyed, of which _____ of said sections shall be sold and the proceeds paid to Greenwood Leflore, and David Folsom. also to be surveyed and disposed of as aforesaid _____ Sections of the same for the benefit of Mushulatubbee, and John Pytchlynn. Also _____ Sections, in manner as aforesaid to be disposed of for the benefit of each of the following persons, John Garland, Joel R. Neil, Middleton Mackey, Israel Folsom, George Harkins, James L. McDonald. The residue to be disposed of, and the proceeds given to Such ~~other~~ persons of the Choctaw Nation, as may be agreed upon in National Council at the

ratification of this treaty. Said surveys shall in all cases include the improvements of the persons entitled; and where no improvement is had, the United States shall designate where the survey shall be made. The proceeds whereof shall be paid so soon as sales of the land so reserved are made. or the United States shall take them by paying, within three months from the ratification, \$1.25/100, if the parties entitled shall consent to it. Said surveys shall be made to conform to sectional lines, and shall not interfere with other previous rights under this treaty.

Article 22. So soon as this Treaty shall be ratified by the parties making it, the United States shall have authority to survey and prepare the Choctaw Country for sale, free of interruption, and said lands thus ceded shall remain as a fund pledged for the payment and satisfaction of the different sums stipulated herein to be paid. But the Indians shall not be interrupted in the possession of their Country, until the expiration of two years from the 15th. of May, ensuing; tho' it is agreed that they will remove earlier if practicable. But, by that period, to wit: the 15th. May, 1832, it is stipulated they shall remove. It is also understood and agreed, that all white persons who at the date of this Treaty, are identified with, and who are members of the Choctaw Nation, by virtue of existing laws, or Indian regulation shall be considered as included under the general term "Choctaws" used and employed in this Treaty.

D, National Archives, Washington, D.C., Record Group 46, SEN 21B-C4.