

Treaty between the United States and the Sisseton and Wahpaton Bands of the Dakota or Sioux Tribe of Indians. Concluded at Washington, June 19, 1858. Ratified by the Senate, March 9, 1859. Proclaimed by the President of the United States, March 31, 1859.

JAMES BUCHANAN,

PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING: June 19, 1858.

WHEREAS a treaty was made and concluded, at the city of Washington, on the nineteenth day of June, one thousand eight hundred and fifty-eight, by Charles E. Mix, Commissioner on the part of the United States, and the following named chiefs and headmen of the Sisseton and Wahpaton bands of the Dakota or Sioux tribe of Indians, viz.: Maz-zah-shaw, Wamdupidutah, Ojupi, and Hahutanai, on the part of the Sissetons, and Maz-zomanee, Muz-zakoote-manee, Upiyahideyaw, Umpedutokechaw, and Tachandupahotanka, on the part of the Wahpatons, they being duly authorized and empowered to act for said bands, which treaty is in the words and figures following, to wit:

Preamble.

Articles of agreement and convention made and concluded at the city of Washington, on the nineteenth day of June, one thousand eight hundred and fifty-eight, by Charles E. Mix, Commissioner on the part of the United States, and the following named chiefs and headmen of the Sisseton and Wahpaton bands of the Dakota or Sioux tribe of Indians, viz.: Maz-zah-shaw, Wamdupidutah, Ojupi, and Hahutanai, on the part of the Sissetons, and Maz-zomanee, Muz-zakoote-manee, Upiyahideyaw, Umpedutokechaw, and Tachandupahotanka, on the part of the Wahpatons, they being duly authorized and empowered to act for said bands.

Contracting parties.

ARTICLE I. It is hereby agreed and stipulated that, as soon as practicable after the ratification of this agreement, so much of that part of the reservation or tract of land now held and possessed by the Sisseton and Wahpaton bands of the Dakota or Sioux Indians, and which is described in the third article of the treaty made with them on the twenty-third day of July, one thousand eight hundred and fifty-one, which lies south or southwestwardly of the Minnesota River, shall constitute a reservation for said bands, and shall be surveyed, and eighty acres thereof, as near as may be in conformity with the public surveys, be allotted in severalty to each head of a family or single person over the age of twenty-one years, in said bands of Indians; said allotments to be so made as to include a proper proportion of timbered land, if the same be practicable, in each of said allotments. The residue of said part of said reservation not so allotted shall be held by said bands in common, and as other Indian lands are held: *Provided, however,* That eighty acres thereof, as near as may be, shall in like manner, as above provided for, be allotted to each of the minors of said bands on his or her attaining their majority, or on becoming heads of families, by contracting marriage, if neither of the parties shall have previously received land. All the necessary expenses of the surveys and allotments thus provided for shall be defrayed out of the funds of said bands of Indians in the hands of the government of the United States.

80 acres of reservation to be allotted each head of a family or, &c.
Vol. x. p. 949

Residue to be held in common.

Further allotment.

Expenses of surveys and allotments, how borne.

As the members of said bands become capable of managing their business and affairs, the President of the United States may at his discretion

Patents to issue to them for said lands.

Lands to be exempt from taxes and not to be alienated, except, &c.

cause patents to be issued to them for the tracts of land allotted to them respectively, in conformity with this article; said tracts to be exempt from levy, taxation, sale, or forfeiture, until otherwise provided for by the legislature of the State in which they are situated, with the assent of Congress; nor shall they be sold or alienated in fee, or be in any other manner disposed of, except to the United States or to members of said bands.

Preamble.
Provisions of treaty of July 23, 1851.

Vol. x. p. 949.

ARTICLE II. Whereas, by the treaty with the Sisseton and Wahpaton bands of Sioux Indians, concluded at Traverse des Sioux on the twenty-third day of July, one thousand eight hundred and fifty-one, said bands retained for their "future occupancy and home," "to be held by them as Indian lands are held, all that tract of country on the Minnesota River, from the western boundary" of the cession therein made "east to the Tcha-tam-ba River on the north, and to the Yellow Medicine River on the south side, to extend on each side a distance of not less than ten miles from the general course of said Minnesota River;"

Amended by the Senate.

Vol. x. p. 951.

And whereas the Senate of the United States so amended said treaty as to strike therefrom the provision setting apart the said land as a home for said bands, and made provision for the payment to said bands, "at the rate of ten cents per acre, for the land included in the said tract so retained and set apart for the occupancy and home" of said bands, and also provided, in addition thereto, that there should be "set apart by appropriate landmarks and boundaries such tracts of country without the limits of the cession made by the first article of the said treaty as shall be satisfactory for their future occupancy and home;" said Senate amendment providing also "that the President may, with the consent of these Indians, vary the conditions aforesaid, if deemed expedient;" all of which provisions in said amendment were assented to by said Indians;

And whereas the President so far varied the conditions of said Senate amendment as to permit said bands to locate for the time being upon the tract originally reserved by said bands for a home, and "no tract of country, without the limits of the cession" made in the said treaty, has ever been provided for or offered to said bands;

Provisions of act of 1854, ch. 167.

Vol. x. p. 326.

And whereas, by the act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, approved July 31, 1854, the President was authorized "to confirm to the Sioux of Minnesota, forever, the reserve on the Minnesota River now occupied by them, upon such conditions as he may deem just;" —

And whereas, although the President has not directly confirmed said reserve to said Indians, they claim that, as they were entitled to receive "such tracts of country" as should "be satisfactory for their future occupancy and home," and as no other country than this reservation was ever provided for or offered to them, and as valuable improvements have been made on said reservation with the moneys belonging to said bands, it is agreed and stipulated that the question shall be submitted to the Senate for decision whether they have such title, and if they have, what compensation shall be made to them for that part of said reservation or tract of land lying on the north side of the Minnesota River; whether they shall be allowed a specific sum of money therefor, and if so, how much; or whether the same shall be sold for their benefit, they to receive the proceeds of such sale, deducting the necessary expenses incident thereto. Such sale, if decided in favor of by the Senate, shall be made under and according to regulations to be prescribed by the Secretary of the Interior, and in such manner as will secure to them the largest sum it may be practicable to obtain for said land.

Question of title of the bands to certain lands to be submitted to the Senate and what allowance is to be made if the decision is in their favor.

From proceeds of sale, not over \$70,000 to be

ARTICLE III. It is also agreed that if the Senate shall authorize the land designated in article two of this agreement to be sold for the benefit of the said Sisseton and Wahpaton bands, or shall prescribe an amount

to be paid to said bands for their interest in said tract, provision shall be made by which the chiefs and headmen of said bands may, in their discretion, in open council, authorize to be paid out of the proceeds of said tract such sum or sums as may be found necessary and proper, not exceeding seventy thousand dollars, to satisfy their just debts and obligations, and to provide goods to be taken by said chiefs and headmen to the said bands on their return: *Provided, however,* That their said determinations shall be approved by the superintendent of Indian affairs for the northern superintendency for the time being, and the said payments be authorized by the Secretary of the Interior.

paid chiefs and headmen.

Proviso.

ARTICLE IV. The lands retained and to be held by the members of the Sisseton and Wahpaton bands of Dakota or Sioux Indians, under and by virtue of the first article of this agreement, shall, to all intents and purposes whatever be deemed and held to be an Indian reservation, and the laws which have been or may hereafter be enacted by Congress to regulate trade and intercourse with the Indian tribes, shall have full force and effect over and within the limits of the same; and no person other than the members of said bands, to be ascertained and defined under such regulations as the Secretary of the Interior shall prescribe—unless such as may be duly licensed to trade with said bands, or employed for their benefit, or members of the family of such persons—shall be permitted to reside or make any settlement upon any part of said reservation; and the timbered land allotted to individuals, and also that reserved for subsequent distribution, as provided in the first article of this agreement, shall be free from all trespass, use or occupation, except as hereinafter provided.

Lands retained under the first article to be deemed an Indian reservation.

ARTICLE V. The United States shall have the right to establish and maintain upon said reservation such military posts, agencies, schools, mills, shops, roads, and agricultural or mechanical improvements as may be deemed necessary; but no greater quantity of land or timber shall be taken and used for said purposes than shall be actually requisite therefor. And if in the establishment or maintenance of such posts, agencies, roads, or other improvements, the timber or other property of any individual Indian shall be taken, injured, or destroyed, just and adequate compensation shall be made therefor by the United States. Roads or highways authorized by competent authority other than the United States, the lines of which shall lie through said reservation, shall have the right of way through the same upon the fair and just value of such right being paid to the said Sisseton and Wahpaton bands by the party or parties authorizing or interested in the same, to be assessed and determined in such manner as the Secretary of the Interior shall direct.

United States may maintain military posts, roads, &c., in reservation.

Compensation to be paid for damages caused thereby to any Indian.

ARTICLE VI. The Sisseton and Wahpaton bands of Dakota or Sioux Indians acknowledge their dependence on the government of the United States, and do hereby pledge and bind themselves to preserve friendly relations with the citizens thereof, and to commit no injuries or depredations on their persons or property, nor on those of the members of any other tribe; but in case of any such injury or depredation, full compensation shall, as far as practicable, be made therefor out of their moneys in the hands of the United States, the amount in all cases to be determined by the Secretary of the Interior. They further pledge themselves not to engage in hostilities with the Indians of any other tribe, unless in self-defence, but to submit, through their agent, all matters of dispute and difficulty between themselves and other Indians for the decision of the President of the United States, and to acquiesce in and abide thereby. They also agree to deliver to the proper officers all persons belonging to their said bands who may become offenders against the treaties, laws, or regulations of the United States, or the laws of the State of Minnesota, and to assist in discovering, pursuing, and capturing all such offenders whenever required so to do by such officers, through the agent or other proper officer of the Indian department.

The bands to preserve friendly relations.

to pay for depredations.

not to engage in hostilities, except, &c.

to surrender offenders.

Annuities to be withheld from those drinking, &c., intoxicating liquors.

ARTICLE VII. To aid in preventing the evils of intemperance, it is hereby stipulated that if any of the members of the said Sisseton and Wahpaton bands of Sioux Indians shall drink or procure for others intoxicating liquors, their proportion of the annuities of said bands shall, at the discretion of the Secretary of the Interior, be withheld from them for the period of at least one year; and for a violation of any of the stipulations of this agreement on the part of any member of said bands, the persons so offending shall be liable to have their annuities withheld, and to be subject to such other punishment as the Secretary of the Interior may prescribe.

Members of the bands may dissolve tribal connections, &c.

ARTICLE VIII. Any members of said Sisseton and Wahpaton bands who may be desirous of dissolving their tribal connection and obligations, and of locating beyond the limits of the reservation provided for said bands, shall have the privilege of so doing, by notifying the United States agent of such intention, and making an actual settlement beyond the limits of said reservation; shall be vested with all the rights, privileges, and immunities, and be subject to all the laws, obligations, and duties, of citizens of the United States; but such procedure shall work no forfeiture on their part of the right to share in the annuities of said bands.

Secretary of Interior to have discretion over manner and objects of annual expenditure.

ARTICLE IX. Such of the stipulations of former treaties as provide for the payment of particular sums of money to the said Sisseton and Wahpaton bands, or for the application or expenditure of specific amounts for particular objects or purposes, shall be, and hereby are, so amended and changed as to invest the Secretary of the Interior with discretionary power in regard to the manner and objects of the annual expenditure of all such sums or amounts which have accrued and are now due to said bands, together with the amount the said bands shall become annually entitled to under and by virtue of the provisions of this agreement: *Provided*, The said sums or amounts shall be expended for the benefit of said bands at such time or times and in such manner as the said Secretary shall deem best calculated to promote their interests, welfare, and advance in civilization. And it is further agreed that such change may be made in the stipulations of former treaties, which provide for the payment of particular sums for specified purposes, as to permit the chiefs and braves of said bands, or any of the subdivisions of said bands, with the sanction of the Secretary of the Interior, to authorize such payment or expenditure of their annuities, or any portion thereof, which are to become due hereafter, as may be deemed best for the general interests and welfare of the said bands or subdivisions thereof.

United States to pay expenses of negotiation.

ARTICLE X. The expenses attending the negotiation of this agreement shall be defrayed by the United States.

Signatures, June 19, 1858.

In testimony whereof, the said Charles E. Mix, Commissioner, as aforesaid, and the undersigned chiefs and headmen of the said Sisseton and Wahpaton bands, have hereunto set their hands and seals at the place and on the day first above written.

CHARLES E. MIX, *Commissioner*. [SEAL.]

MUZ-ZAH-SHAW, (Red Iron)	his x mark.	[SEAL.]
WAM-DU-PI-DU-TAH, (War Eagle's Scarlet Tail)	his x mark.	[SEAL.]
OJUPI, (The Planter)	his x mark.	[SEAL.]
HA-HU-TA-NAI, (The Stumpy Horn)	his x mark.	[SEAL.]
MAZ-ZO-MA-NEE, (Walking Iron)	his x mark.	[SEAL.]
MAZ-ZA-KOOTE-MANEE, (Shoots Iron as he Walks)	his x mark.	[SEAL.]
UPI-YA-HI-DE-YAW, (Chief of Lac qui Parle)	his x mark.	[SEAL.]
UMPE-DU-TO-KE-CHAW, (Other Day)	his x mark.	[SEAL.]

TA-CHAN-DU-PA-HO-TAN-KA, (His
Pipe with Strong Voice,) his x mark. [SEAL.]

Signed, sealed and delivered in presence of—

JOSEPH R. BROWN, *Sioux Agent*,
A. J. CAMPBELL, *Interpreter*,
A. ROBERTSON,
JOHN DOWLING,
N. R. BROWN,
FRIEDRICH SCHMIDT,
M. SMITSER,
B. D. HYAM,
P. F. WOOD,
CHARLES CRAWFORD,
JAMES R. ROCHE.

And whereas the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the ninth day of March, one thousand eight hundred and fifty-nine, advise and consent to the ratification of its articles by a resolution in the words and figures following, to wit :

Consent of
Senate, March
9, 1859.

“IN EXECUTIVE SESSION,

“SENATE OF THE UNITED STATES, March 9, 1859.

“Resolved, (two thirds of the senators present concurring,) That the Senate advise and consent to the ratification of the articles of agreement and convention made and concluded on the 19th day of June, 1858, with the Sisseton and Wahpaton bands of the Dakotah or Sioux Indians.

“Attest: “ASBURY DICKINS, *Secretary*.”

Now, therefore, be it known that I, JAMES BUCHANAN, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of March ninth, one thousand eight hundred and fifty-nine, accept, ratify, and confirm said treaty.

Proclamation,
March 31, 1859.

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

Done at the city of Washington, this thirty-first day of March, in the year of our Lord one thousand eight hundred and fifty-nine, and of the independence of the United States the eighty-third.

JAMES BUCHANAN.

By the President:
LEWIS CASS, *Secretary of State*.

RESOLUTION OF THE SENATE OF THE UNITED STATES.

Right and Title of certain Bands of Sioux Indians, to lands embraced in Reservations on the Minnesota River.

IN THE SENATE OF THE UNITED STATES,
JUNE 27th, 1860.

Preamble.
Ante, Treaties,
pp. 80, 86.

Vol. x. p. 957.

1854, ch. 167.
Vol. x. p. 326.

Right of In-
dians determined,
and allowance to
them.

Settlers in good
faith on said res-
ervations, may
preëmpt, &c.

Proviso.

WHEREAS by the second articles of the treaties of June 19, 1858, with the Med-a-wa-kanton and Wah-pa-koo-ta, and the Sisseton and Wah-pa-ton bands of the Dacotah or Sioux Indians, it is submitted to the Senate to decide as to the right or title of said bands of Indians to the lands embraced in the reservations occupied by them on the Minnesota River, in the State of Minnesota, and what compensation shall be made to them for those portions of said reservations lying on the north side of that river, which they agreed by said treaties to surrender and relinquish to the United States; "whether they shall be allowed a specified sum in money therefor, and if so, how much, or whether the same shall be sold for their benefit, they to receive the proceeds of such sale, deducting the necessary expenses incident thereto;" and whereas said Indians were permitted to retain and occupy said reservations in lieu of other lands which they were entitled to under the amendments of the Senate to the treaties made with them in the year 1851, and large amounts of the money of said Indians have been expended by the government in improvements and otherwise upon the lands contained in said reservations; and whereas by act of Congress of July 31, 1854, said reservations were authorized to be confirmed to those Indians:

Resolved, That said Indians possessed a just and valid right and title to said reservations, and that they be allowed the sum of thirty cents per acre for the lands contained in that portion thereof lying on the north side of the Minnesota River, exclusive of the cost of survey and sale, or any contingent expense that may accrue whatever, which by the treaties of June, 1858, they have relinquished and given up to the United States,—

Resolved, further, That all persons who have in good faith settled and made improvements upon any of the lands contained in said reservations, believing the same to be government lands, shall have the right of pre-emption to one hundred and sixty acres thereof, to include their improvements, on paying the sum of one dollar and twenty-five cents per acre therefor: *Provided*, That when such settlements have been made on the lands of the Indians on the south side of the Minnesota River, the assent of the Indians shall first be obtained, in such manner as the Secretary of the Interior shall prescribe, and that the amount which shall be so paid for their lands, shall be paid into the treasury of the United States.

Attest:

ASBURY DICKINS, *Secretary*.