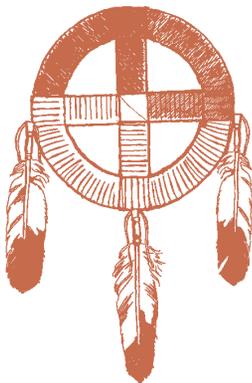


THIS COUNTRY IS SACRED TO MY PEOPLE

AMERICAN INDIAN LAWS AND TREATIES

1820-1890



An exhibition from the

ARTHUR C. PULLING RARE BOOKS COLLECTION

RIESENFELD RARE BOOKS RESEARCH CENTER

UNIVERSITY OF MINNESOTA LAW LIBRARY

APRIL 2003

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Prepared by Katherine Hedin, Curator of Rare Books and Special Collections

CONTENTS

Introduction	4
Removal of the Southern Tribes to Indian Territory	5
Constitution and Laws of the American Indians	11
Plates	16
The American Indian Treaty Collection	22
The Indians of Minnesota	26
Selected Texts	29
Conclusion	31

Featured on the cover and included in the exhibit is a medicine wheel created by Charles Stately, Red Lake Band Anishinabe, and painted by his daughter Matchez Beaulieu Stately, White Earth Band Anishinabe.

PREPARED ON THE OCCASION OF THE
INAUGURAL LECTURE OF THE
UNIVERSITY OF MINNESOTA LAW LIBRARY
DISTINGUISHED LECTURER SERIES

“THE BOOK AND THE BOW: SHIFTING BATTLEFIELDS
IN THE FIVE HUNDRED YEAR WAR FOR NATIVE AMERICAN
CONQUEST AND SURVIVAL”

RENNARD STRICKLAND
PHILIP H. KNIGHT PROFESSOR OF LAW
UNIVERSITY OF OREGON SCHOOL OF LAW

APRIL 3, 2003

INTRODUCTION

Drawn exclusively from the Arthur C. Pulling Rare Books Collection of the University of Minnesota Law Library, *This Country is Sacred to My People: American Indians Laws and Treaties, 1820-1890* traces critical developments in the histories of several American Indian tribes. Limited as any exhibition is by space, the display can touch only on a few of the critical historical events of this period. We hope that this exhibition provides an informative and balanced approach to an often misrepresented and misunderstood period in American history, and encourages viewers and readers to explore the topic further.

The exhibition opens with documents which trace the removal of American Indian tribes in the 1830's to lands west of the Mississippi River. The forced removal of tribes and the expansion of reservations throughout the country is addressed through the inclusion of primary documents such as Congressional bills and treaties. The exhibition also includes primary materials of American Indian governments in the nineteenth century. Samples of the laws and constitutions of several tribes—many in both English and native languages—exemplify the development of tribal governments of Indian nations removed to Indian Territory.

It is my pleasure to issue this catalog in conjunction with the inaugural lecture of the University of Minnesota Law Library Distinguished Lecturer Series. The Law Library is honored to have its inaugural lecture delivered by the eminent American Indian law scholar Rennard Strickland, Philip H. Knight Professor of Law at the University of Oregon School of Law.

Joan S. Howland
*Roger F. Noreen Professor of Law and
Associate Dean for Information and Technology*

REMOVAL OF THE SOUTHERN TRIBES TO INDIAN TERRITORY

CHEROKEE INDIANS

1. *Constitution of the Cherokee Nation, made and established...at New Echota, July 26, 1827.*
Printed in: *Negotiation for Cherokee Lands. Letter from the Secretary of War...House Document no. 106, 20th Congress, 1st session, 1828.*
Washington: Gales & Seaton, 1828.

The Constitution of the Cherokee Nation, adopted July 26, 1827, asserted the sovereignty of the Cherokee Nation and its complete jurisdiction over its own territory. Modeled after the United States Constitution, it established executive, legislative and judicial branches of government and defined their powers. Yet, as Rennard Strickland explains,

Surely the most important provisions, from the standpoint of the laws of the Cherokees, were those which were not a part of the United States Constitution. Absolutely essential to the maintenance of the Cherokee Nation were the restrictions making all land the “common property of the Nation.”¹

2. *Georgia-United States Compact, April 24, 1802.*
Printed in: *Acts of the General Assembly of the State of Georgia passed at the sessions of June and November, 1802.* Louisville: Day & Hely, 1803.

Georgia and the United States signed a compact on April 24, 1802, whereby Georgia ceded its western lands, now the states of Alabama and Mississippi, to the United States. In exchange, the United States agreed to extinguish Indian claims within the state of Georgia as soon as the land could be “peaceably obtained, on reasonable terms.”

Chief John Ross stated his opinion of the Compact in his Annual Message of 1828:

This promise was made on the part of the United States without knowing whether this nation would ever consent to dispose of those lands on any terms whatever; and the Cherokees not being a part in the compact, their title cannot be affected in the slightest degree. It appears astonishingly unreasonable, that all those hard expressions of denunciation which have been unsparingly lavished against our sacred rights and interests, by interested politicians, have arose from no other circumstance than our honest refusal to sell the United States lands, for the fulfillment of their Compact with Georgia. ²

3. *An Act to add the territory lying within the limits of this state and occupied by the Cherokee Indians, to the counties of Carroll, DeKalb...and to extend the laws of this state over the same.... December 20, 1828. Printed in: Acts of the General Assembly of the State of Georgia...1828. Milledgeville: Camak & Ragland, 1829.*

The assertion of the Cherokee Nation that it was a sovereign nation was challenged by Georgia in 1828 and 1829 by laws that abolished the Cherokee government, extended state laws to Cherokee lands, and added Cherokee land to its northwestern counties.

President Andrew Jackson's reply to the protests of the Cherokee Nation against the actions of Georgia was written by Secretary of War John H. Eaton on April 18, 1829:

There is but a single alternative, to yield to the operation of those laws, which Georgia claims, and has a right to extend throughout her own limits, or to remove . . . ³

4. *Jeremiah Evarts. Essays on the present crisis in the condition of the American Indians; first published in the National Intelligencer, under the signature of William Penn. Boston: Perkins & Marvin, 1829.*

Opposition to the removal policy of President Jackson was galvanized by Jeremiah Evarts. A New England lawyer, Evarts traveled extensively through southern Indian lands, was thoroughly versed in the history of Indian-white relations, and was an adamant champion of the Cherokee stand against removal.

His campaign to arouse the national conscience began with a series of twenty-four articles written under the pseudonym William Penn that appeared in the *National Intelligencer*, a Washington newspaper, in 1829.

5. *Speeches on the passage of the bill for the removal of the Indians, delivered in the Congress of the United States, April and May 1830.* Boston: Perkins and Marvin, 1830.

Congressional debate on the proposed removal bill was heated, antagonistic and sectional, the North aligning with the Indian cause. Anti-removal speeches were printed in this volume, edited by Jeremiah Evarts. Senator Theodore Frelinghuysen of New Jersey spoke passionately in opposition to removal:

We have crowded the tribes upon a few miserable acres on our southern frontier—it is all that is left to them of their once boundless forests—and still, like the horseleech, our insatiated cupidity cries, Give, Give. (p. 7)

6. *Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831).*
Printed in: Richard Peters. *The Case of the Cherokee Nation against the State of Georgia...* Philadelphia: John Grigg, 1831.

Georgia's attempts to extinguish Indian title to lands within the state were challenged when the Cherokees brought an original action in the U.S. Supreme Court. Wrote Rennard Strickland:

The Cherokees kept faith with the American dream. In their great struggle to retain their ancestral homes in Georgia in the 1830's, they turned not to the bow but to the book and the law which it contained. ⁴

Support in favor of the Cherokees was fanned by this privately printed publication edited by court reporter Richard Peters. In addition to the justices' opinions, it includes treaties between the United States and the Cherokees, briefs of the Cherokees' counsel, and the opinion of Chancellor James Kent on the case.

7. *Treaty between the United States and the Cherokee tribe of Indians, concluded December 29, 1835, at New Echota, Georgia.*
Printed in: *Treaties between the United States of America and the several Indian tribes, from 1778 to 1837.* Washington, D.C.: Langtree and O'Sullivan, 1837.

A minority of Cherokees, under the leadership of John Ridge, eventually came to believe that removal was inevitable. On December 29, 1835, the Ridge Party signed the Treaty of New Echota, which ceded Cherokee land east of the Mississippi River in exchange for five million dollars and land in Indian Territory.

Signed by a minority of the tribe while Chief John Ross was in Washington, the validity of the treaty was denounced by the Ross Party and became the subject of public outcry. It was nonetheless ratified by the Senate by only one vote more than the necessary two-thirds majority.

8. *Memorial of a delegation of the Cherokee Nation, remonstrating against the instrument of writing (treaty) of December 1835.* House Document NO. 99, 25th Congress, 2nd session, 1838. Thomas Allen, print.

The Cherokee people do not, and will not, recognise the obligation of the instrument of December, 1835. We reject all its terms; we will receive none of its benefits. If it is to be enforced upon us, it will be by your superior strength. (p. 3)

In spite of opposition from John Ross and others, President Martin Van Buren ordered the removal of the Cherokee people to the West. Between 1838 and 1839 approximately sixteen thousand people were removed to Indian Territory. About four thousand Cherokees perished on what was later referred to as the "Trail of Tears."

CHOCTAW INDIANS

9. *Treaty between the United States of America and the Choctaw nation, concluded September 27, 1830, at Dancing Rabbit Creek.*

Printed in: *Message from the President of the United States transmitting copies of treaties...House Executive Document NO. 123, 21st Congress, 2nd session, 1831.*

In the Treaty of Dancing Rabbit Creek, the first treaty signed after the passage of the Indian Removal Act, the Choctaws agreed to cede all their lands east of the Mississippi in return for a specified tract in the West.

Between 1831 and 1833, some twelve thousand five hundred Choctaws were removed to Indian Territory. Approximately twenty-five hundred died en route.

10. *Choctaw Treaty-Dancing Rabbit Creek. Letter from the Secretary of War, transmitting a communication from the Commissioner of Indian Affairs... House Document NO. 109, 26th Congress, 2nd session, 1841.*

The Treaty of Dancing Rabbit Creek included the provision that the United States would pay for the education of forty Choctaw youth at the Choctaw Academy in Kentucky. House Document NO. 109 includes numerous documents regarding the management of the Academy. One letter in 1828 from Thomas McKenney, head of the Office of Indian Affairs, to the head of the academy is indicative of the great value the United States government placed on education as a mechanism for breaking tribal bonds:

It is considered useful to encourage the boys to write home; but you should especially examine and correct their letters, and make them tend to the great objects of the Government, in giving them a country, a home, and a Government, and laws, etc. etc. on which alone their very existence depends. Do not lose sight of this most important part of letter-writing. (p. 35)

CREEK INDIANS

11. *Letter from the Secretary of War transmitting copies of the report and proceedings of the Commissioners appointed to treat with the Creek Nation of Indians for an extinguishment of their claim to land lying within the State of Georgia, etc. House Document no. 72, 18th Congress, 2nd session, 1825. Washington: Gales & Seaton, 1825.*

Included in this document is an address by Duncan Campbell and James Merriwether, Georgians serving as federal commissioners, to the chiefs of the Creek Nation:

Brothers, we now tell you what we, in the name of your Father, the President, want you to do. We want the country you now occupy. It is within the limits of Georgia and Alabama. These states insist upon having their lines cleared. The President will do this by giving you a better country.... (p. 24)

12. *Treaty between the United States of America and the Creek Nation of Indians, concluded January 24, 1826, at the City of Washington. Printed in: Treaty with Creek Indians...House Document no. 165, 19th Congress, 1st session, 1826. Washington: Gales & Seaton, 1826.*

The Creeks, located in Georgia and Alabama, ceded territory to the United States in 1814, 1818 and 1821. In 1825 a cession of Creek land in Georgia and much of Alabama was made at the Treaty of Indian Springs. Signed secretly by Chief William McIntosh in exchange for a bribe by federal commissioners, the treaty was declared fraudulent by President John Quincy Adams. McIntosh was executed by order of the Creek Council as a traitor. Wrote Michael D. Green in *The Politics of Indian Removal*,

No native nation had ever before persuaded the United States to tear up a ratified treaty, and none would ever succeed again. ⁵

In the treaty of 1826, the Creeks ceded the majority of its land and agreed to remove to the West.

CONSTITUTIONS AND LAWS OF THE AMERICAN INDIANS

During the 1830's Congress established Indian Territory. A part of what had been erroneously labeled "The Great American Desert," it was viewed as worthless for agriculture and thus became an obvious choice for a colonization zone for the Indians removed from the South and the Old Northwest.

The southern tribes quickly rebuilt their lives, re-establishing constitutional governments, organizing agricultural economies, establishing schools, and encouraging missionary work. Their "industry and diligence" led to their designation by Americans as "The Five Civilized Tribes."

CHEROKEE INDIANS

13. *The Constitution and laws of the Cherokee Nation passed at Tah-le-quah, Cherokee Nation, 1839.* Washington: Gales and Seaton, 1840.

One of the most significant contributions to American Indian bibliography is Lester Hargrett's *Bibliography of the Constitutions and Laws of the American Indians*, published in 1947. The Law Library's American Indian Collection contains 64 of the 225 entries in Hargrett. Hargrett's annotations, accompanied by the entry number in the bibliography, are included for many of the books in this section of the exhibit.

The 1840 edition of Cherokee laws is the earliest compilation of American Indian laws in the Law Library's collection.

The Gales and Seaton edition of the constitution and 1839 acts and resolutions is the earliest of several volumes of Indian laws printed at Washington over a long period....Not United States public documents... they were executed by private printing firms at the order usually of tribal delegates visiting Washington on official business. (Hargrett 7)

This volume includes the Act of Union in 1840 between the Eastern Cherokees—mainly from Georgia—and Western Cherokees, commonly called “Old Settlers,” who had migrated to the West beginning in 1809. The Act called for the unity of the three factions of Cherokees: John Ross and his followers, the Ridge or Treaty Party, and the Western Cherokee.

14. *Laws of the Cherokee Nation: adopted by the Council at various periods. Printed for the benefit of the Nation. Tahlequah, C.N.: Cherokee Advocate Office, 1852.*

An examination of the wide variety of laws printed here provides an interesting glimpse into Cherokee culture in the first half of the nineteenth century: intermarriage (“intermarriages between negro slaves and indians, or whites, shall not be lawful,” November 11, 1824); education (“agents shall be appointed to solicit...donations...for the object of establishing...a national academy and for procuring two sets of types to fit one press, to establish a printing office at New Town,” October 15, 1825); translation of laws (“the Principal Chief...is hereby ...authorized to select two suitable persons to translate all the Eastern and Western...laws...into the Cherokee language,” December 14, 1842).

15. *Compilation, in Cherokee. 1852.*

[12 lines in Cherokee] | [thick-thin rule] | [3 lines in Cherokee] | [short rule] | 1850. [Tahlequah, 1852]

The preceding text, translated from English to Cherokee.

Almost without exception, the Indian language version of the laws are rarer than the English. There are good reasons for this. In the councils of the civilized tribes, although deliberations were bilingual, the laws were drafted and adopted in English and they were first printed in that language.... Translations into the native tongue were made later, often months afterward, and printed in smaller numbers primarily for those full bloods sufficiently interested to want a copy of the laws but unable to read English.... (Hargrett 19)

16. *Laws of the Cherokee Nation, passed during the years 1839-1867.* Compiled by authority of the National Council. St. Louis: Missouri Democrat print, 1868.

The volume was compiled and edited by the mixed blood William Penn Boudinot or Kálanu (1830-1898), a son of the noted Elias Boudinot. Educated in the East during the troubled years that followed the assassination of his father in 1839, Boudinot returned to the Cherokee Nation to become several times editor of the Advocate, a lieutenant colonel serving with Indian troops in the Confederate army, and long a prominent actor in tribal affairs. (Hargrett 29)

17. *Code, in Cherokee.* 1875.
[5 lines in Cherokee] | [filet] | [1 line in Cherokee] | [cut, seal of the Cherokee Nation | [filet] | [3 lines in Cherokee] | 1875. [St. Louis]

A young Cherokee printer, Elias Cornelius Boudinot, Jr. (1854-1896), the son of William Penn Boudinot, one of the compilers, journeyed to St. Louis to supervise the printing of this volume...Presumably he set the type for the Cherokee version. (Hargrett 37)

18. [*Laws of townships governing the Assembly of Fellowship, Indian tribes, and also laws of the United States Congress after 1874.* Tahlequah, Indian Territory: National Printing.] 1879. In Cherokee.

Beginning in 1850, the Cherokee Nation began regularly publishing Cherokee-language editions of treaties and United States laws and regulations governing Indians.

CHOCTAW, CREEK AND CHICKASAW INDIANS

19. *Constitution and laws of the Choctaw Nation. Together with the treaties of 1837, 1855, 1865 and 1866.* Published by authority of the General Council by A.R. Durant. Dallas: Worley, 1894.

20. *Revised statutes, in Choctaw.* 1894.

*Chahta oklah i nanvlhpisa noshkobo micha nanvlhpisa...*1894.

The preceding text, translated from English to Choctaw.

21. *Constitution and laws of the Muskogee Nation.* Published by authority of the National Council. Saint Louis: Levison & Blythe, 1880.

This volume contains the 1867 Constitution of the Creek Nation, which remained in force until tribal governments were dissolved in 1906. According to Creek tribal records, 251 copies were printed.

22. *Revised statutes, in Creek.* 1894.

Este Maskoke etvlwv emvhakv emputakv momet emvhakv.

[Muskogee, 1894.]

23. *Compilation, in Choctaw.* 1873.

Chikasba okla i kunitishun micha i nan ulhpisa. Chikasba okla i nan apesa yut apesa tok mak oke. [New York, 1873]

Contains acts of the Chickasaw Nation. This volume is a translation from English to Choctaw, the language used—with slight modifications—by the Chickasaw. The translator was the Reverend Allen Wright, an influential Choctaw who served at various times as national treasurer, national delegate, treaty commissioner, and principal chief. He also served as chaplain to the Confederate Choctaw troops during the Civil War.

OKMULGEE COUNCIL

24. *Journal of the sixth annual session of the General Council of the Indian Territory...*May, 1875. Lawrence, Kansas: Republican Journal Steam Printing, 1875.

Westward expansion in the 1840's resulted in the desire of the United States government to organize Indian Territory as a territory under the jurisdiction of the United States, thereby folding it into the political framework of the nation and opening the riches of its lands to all.

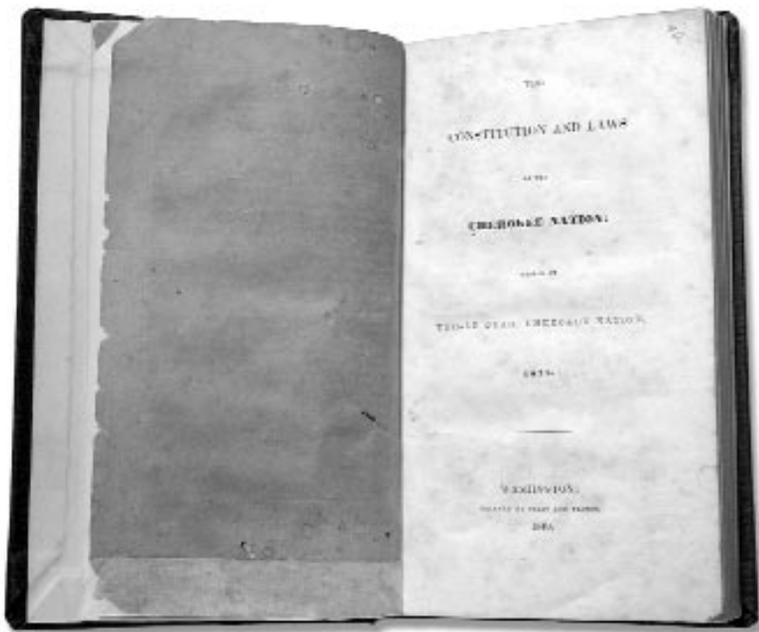
The United States provided the groundwork for eventual territorial status for Indian Territory in the Reconstruction treaties of 1866, negotiated with each of the five southern tribes. In those treaties the United States provided funds for a general council for all tribes in Indian Territory. The resulting Okmulgee Council was first convened by the United States government in 1870.

The Council, however, worked vigorously for the next five years pursuing its own agenda, the formation of a “purely Indian government.” It strongly protested any government plan for territorial status. Finally, the Commissioner of Indian Affairs, Alfred P. Smith, reported that the Council had failed and advised Congress to withdraw its financial support. The Council’s last meeting, composed of delegates from thirty tribes (including several plains tribes), was in 1875. The Council, wrote Angie Debo, “had not failed; it had succeeded too well in welding an Indian nationality and defending Indian rights.”⁶

STATE OF SEQUOYAH

25. *Constitution of the State of Sequoyah*. Muskogee, I.T.: Phoenix Printing Co., [1905]

The Constitution of the State of Sequoyah was adopted by the principal tribes in Indian Territory in 1905. However, the attempt of tribes to gain admission to the United States as the State of Sequoyah and thereby avoid inclusion in the proposed State of Oklahoma failed. In 1906 tribal governments in Indian Territory were abolished by Congress and tribal members were made citizens of the United States. In 1907 Indian Territory was joined with the Territory of Oklahoma and admitted into the Union as the State of Oklahoma.



NO. 13

The Constitution and laws of the Cherokee Nation passed at Tah-le-quah, Cherokee Nation, 1839. Washington: Gales and Seaton, 1840.
(see page 11)

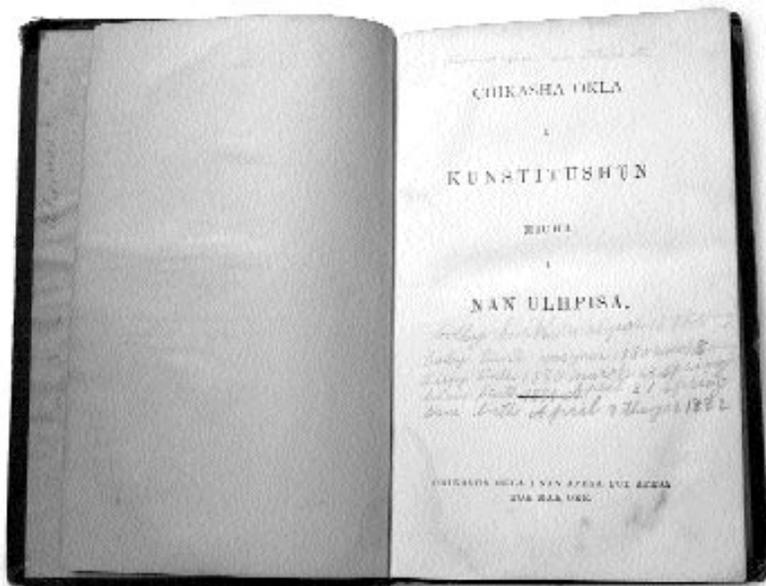


NO. 15

Compilation, in Cherokee. 1852.

[Tahlequah, 1852]

(see page 12)

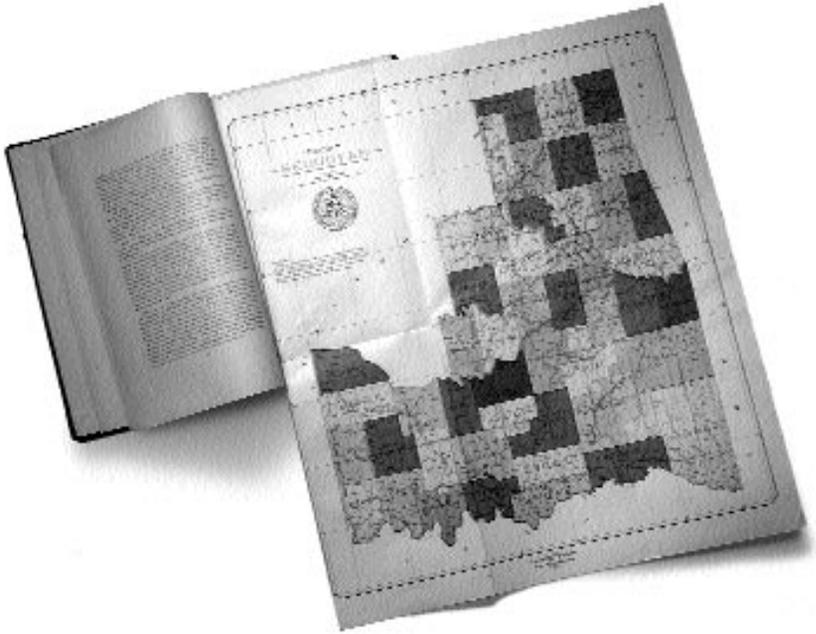


NO. 23

Compilation, in Choctaw. 1873.

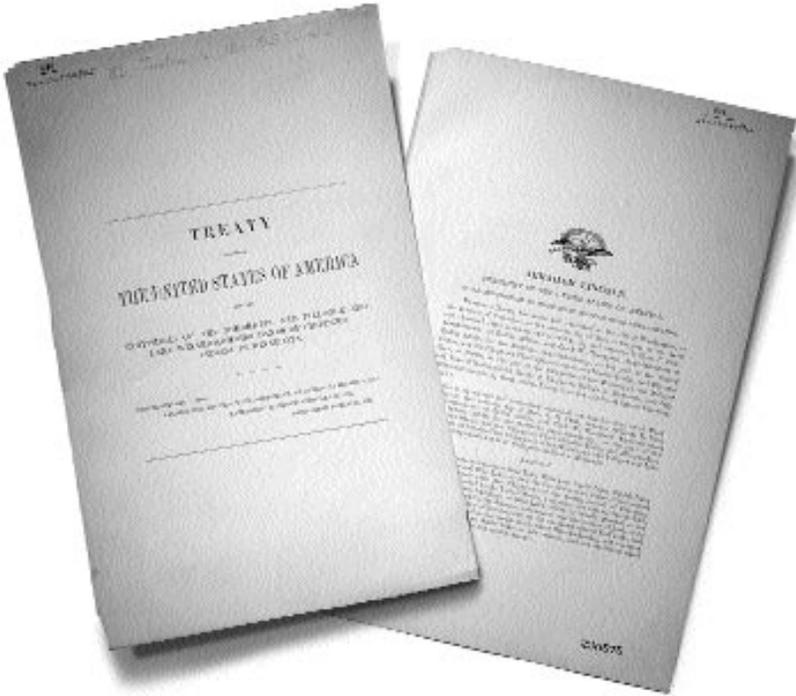
Chikasha okla i kunititshun micha i nan ulpisa. [New York, 1873]

(see page 14)



NO. 25

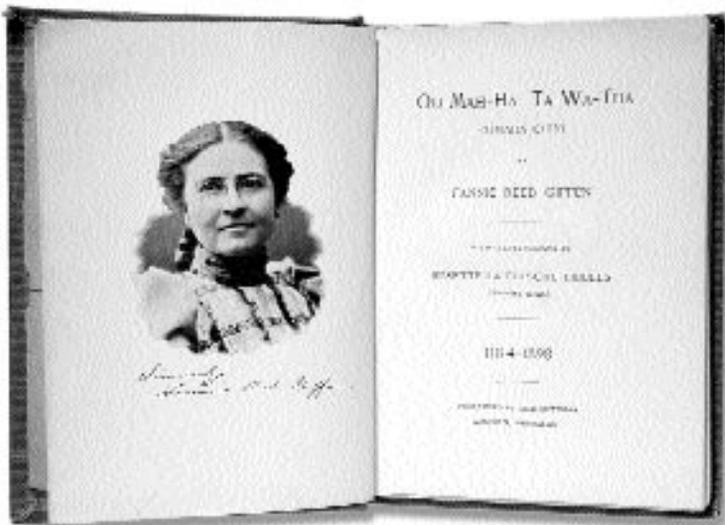
Constitution of the State of Sequoyah.
Muskogee, I.T.: Phoenix Printing Co., [1905]
(see page 15)



NO. 36

Treaty between the United States of America and the Chippewas of the Mississippi and Pillager and Lake Winnebagoish bands of Chippewa Indians in Minnesota, concluded May 7, 1864, at the City of Washington.

(see page 28)



NO. 40

Giffen, Fannie Reed. *Oo-mah-ha Ta-wa-tha (Omaha City) 1854-1898...*
with illustrations by Susette La Flesche Tibbles (Bright Eyes). Lincoln: Neb.:
Published by the authors, [1898]. 1st ed.
(see page 30)

THE AMERICAN INDIAN TREATY COLLECTION

The Law Library's American Indian Treaty Collection consists of eighty nine folio treaties, each printed for official purposes and in small quantities (probably not more than ten copies each.) A cache of these original folio proclamations, dating from the 1820s to 1868, was discovered by noted Indian bibliographer Lester Hargrett in Washington D.C. in the late 1920's.⁷

26. *Treaty between the United States and the Comanche, Kiowa, and Apache Indians, concluded July 27, 1853, at Fort Atkinson, Indian Territory.*

This treaty—and a similar treaty negotiated with the Indians of the northern plains, the Fort Laramie Treaty of 1851—was designed to clear a passageway to the Pacific and ensure the safety of emigrants. The Indians agreed to permit emigrants to safely pass through their territory and granted permission to the United States to establish roads and military posts in their territory.

Thomas Fitzpatrick, Indian agent and one of the negotiators of the treaty, wrote in 1853 that this treaty, in light of future plans for a transcontinental railway, was “of inestimable value,”

It will afford all the concession necessary for locations, pre-emptions, reservations, and settlements, and avoid, besides, the enhanced costs of secondary treaties with these tribes. Moreover, it will open a rich vein of wealth in what is now a wilderness, and that, too, without additional public burden. ⁸

27. *Treaty between the United States of America and the Arapahoe and Cheyenne Indians of the Upper Arkansas River, concluded February 18, 1861, at Fort Wise, Territory of Kansas.*

Unlike the Fort Laramie Treaty of 1851 and the Fort Atkinson Treaty of 1853, the Treaty of Fort Wise was based on the federal government's premise that the time had come for Indians to give up their traditional way of life as hunters and adopt a life based on farming.

Numerous provisions aimed at “promoting settled habits of industry and enterprise” were included in the Treaty of Fort Wise. The Indians agreed to persuade portions of their tribe not signing the treaty to “participate in the advantages herein provided for respecting their improvement and civilization.”

The majority of Cheyenne and Arapaho, however, had no interest in the government’s plan for their “improvement and civilization” and continued hunting buffalo on their accustomed lands. Violence culminated in Colonel John M. Chivington’s attack on November 29, 1864 on the sleeping encampment of Black Kettle. The attack at Sand Creek was described in a letter by Helen Hunt Jackson printed in the *New York Tribune*, January 1880:

The chief, White Antelope, always known as friendly to the whites, came running toward the soldiers, holding up his hands and crying “Stop! stop!” in English. When he saw that there was no mistake, that it was a deliberate attack, he folded his arms and waited till he was shot down. The United States flag was floating over the lodge of Black Kettle... below it was tied also a small white flag...⁹

28. *Treaty between the United States of America and the Kiowa, Comanche and Apache Tribes of Indians, concluded October 21, 1867, at Medicine Lodge Creek, State of Kansas.*

More than five thousand Indians—Kiowas, Comanches, Apaches, Southern Cheyenne, and Southern Arapaho—were present at the council called by the United States Peace Commission in October 1867 at Medicine Lodge Creek in Kansas. By the terms of three treaties signed at Medicine Lodge, the Indians agreed to settle on two reservations in the western part of Indian Territory. Wrote General William Tecumseh Sherman to General Philip Sheridan, who was given the responsibility of crushing Indian resistance,

Go ahead in your own way, and I will back you with my authority. If it results in the utter annihilation of these Indians, it is but the result of what they have been warned again and again.¹⁰

By the end of Sheridan's winter campaign of 1868-1869, the signatories of the Medicine Lodge Lake treaties were confined to reservations in Indian Territory. One result of the campaign was the destruction of Black Kettle's peaceful village on the Washita River on November 27, 1868, by troops under the command of Lieutenant Colonel George Armstrong Custer. Stated historian Joe Medicine Crow,

They called it the Battle of Washita, but there was really no battle. It was a massacre. ¹¹

29. *Treaty between the United States of America and the Crow Tribe of Indians, concluded May 7, 1868, at Fort Laramie, Territory of Dakota.*

Three treaties were signed at Fort Laramie. The Crows signed a treaty on May 7, 1868, in which they agreed to accept a reservation in Montana, relinquishing territory guaranteed to them in the Fort Laramie Treaty of 1851. Likewise the Northern Cheyenne and Northern Arapaho agreed to reservations in a treaty signed May 10.

On April 29, 1868, the Brúle Sioux signed a treaty that established the Great Sioux Reservation, comprising the western half of South Dakota, including the sacred Paha Sapa—the Black Hills—“for the absolute and undisturbed use and occupancy of the Sioux.” Red Cloud signed the Fort Laramie Treaty on November 6, 1868.

In 1980, one hundred and twelve years after Red Cloud “touched his pen” to the Fort Laramie Treaty of 1868, the Supreme Court ruled that in 1876 the United States had taken the Black Hills unconstitutionally and awarded the Sioux Nation 106 million dollars.

The signatories of the Fort Laramie Treaty have rejected the award, continuing to insist upon the return of the Black Hills, the holder of their “Mother’s heart and pulse.” Said Charlotte Black Elk in 1995,

As a Lakota person, and as an American Indian, I like Mount Rushmore. I think that as long as that monstrosity sits in the middle of our sacred land, that we will never give up our fight, one to have our

*lands returned to us, and secondly, to be who we are....So for me as a Lakota...I see Mount Rushmore, and I have to say to myself, "We are still here. We're going to have this land back."*¹²

30. *Treaty between the United States of America and the Nez Percé Tribe of Indians, concluded June 9, 1863, at Lapwai, Territory of Washington.*

The treaty signed on June 9 opened almost three-fourths of the Lapwai Reservation in Idaho Territory to settlers. Many chiefs, including Old Joseph, refused to sign it. An additional treaty, also spurned by Old Joseph, was signed by several chiefs in Washington, D.C., in August 1868. Signed on August 13, it was the last treaty signed between the United States and an Indian tribe.

Although Old Joseph's son, Chief Joseph, was at length persuaded to move his people from their beloved Wallowa valley in northeastern Oregon to the Lapwai Reservation, hostilities escalated so intensely before he was able to move that he chose to seek sanctuary east of the Rocky Mountains. Thus began the epic 1,700-mile flight of the Nez Percé through Idaho, Wyoming and Montana, a flight that ended thirty miles short of sanctuary in Canada. Joseph's surrender speech ended with the oft-quoted lines:

Hear me, my chiefs, I am tired; my heart is sick and sad. From where the sun now stands, I will fight no more forever.

THE INDIANS OF MINNESOTA

DAKOTA AND NAKOTA INDIANS

31. *Report of the Commissioners appointed by the President of the United States, to investigate the official conduct of Alexander H. Ramsey.... Senate Executive Document no. 61, 33rd Congress, 1st session, 1854.*

Charges that Alexander Ramsey had conducted the Treaty of Traverse des Sioux by fraudulent means in order to obtain payments for debts owed by the Indians to Henry Sibley led to a Senate investigation. The Senate Committee on Indian Affairs concluded “that the conduct of Governor Ramsey was not only free from blame, but highly commendable and meritorious.”¹³

32. *Treaty between the United States and the Mendawakanton and Wahpakoota bands of Dakota or Sioux Tribe of Indians, concluded June 19, 1858 at the City of Washington.*

By the terms of this treaty, and a similar one signed on the same day with the Sisseton and Wahpeton bands, the reservations established in the 1851 treaties were reduced by half. The Dakota ceded close to one million acres on the northern side of the Minnesota River for a price to be fixed by the Senate. They were left with only the tract south of the river.

In 1861 Congress allocated \$96,000 for the Lower Sioux—about thirty cents an acre—but nearly all of it went to traders. The Upper Sioux received a little more than half of the \$107,880 allocated to them.

33. *Treaty between the United States and the Yancton tribe of Sioux or Dacotah Indians, concluded April 19, 1858, at the City of Washington.*

In this treaty the Nakota (Yankton Sioux) ceded the pipestone quarry in southwestern Minnesota. Article 8 states:

[The Indians] shall be secured in the free and unrestricted use of the red pipe-stone quarry...for the purpose of procuring stone for pipes...and the United States...[shall] retain the same and keep it open and free to the Indians to visit and procure stone for pipes so long as they shall desire.

In 1929, under extreme duress from the United States government, the Nakota sold the Pipestone Reservation for \$312,588.90, plus federal assurance of American Indian access to the quarries.

OJIBWAY INDIANS

34. *Treaty between the United States and the Mississippi Chippewa Indians, concluded Feb. 22, 1855, at the City of Washington.*

During the first half of the nineteenth century the entire breadth of northern Minnesota was home to the Ojibway, referred to in treaties and United States government publications as Chippewa and known to themselves as Anishinabe.

In 1855 the Chippewa of the Mississippi and the Pillager and Winnibigoshish bands ceded an immense area in northern Minnesota, stretching from Lake Superior to the Red River of the North, thereby opening to the United States the great pine forests around the headwaters of the Mississippi and the St. Louis Rivers. Nine reservations were established by the treaty, including present-day Leech Lake and Mille Lacs reservations.

35. *Treaty between the United States of America and the Red Lake and Pembina bands of Chippewas, concluded October 2, 1863, at the Old Crossing of Red Lake River, State of Minnesota.*

In this treaty the Red Lake and Pembina bands ceded some five million acres in the northwest corner of Minnesota and the adjacent area of North Dakota, but retained a large tract surrounding Lower Red Lake and a portion of Upper Red Lake. Unlike most reservations in the United States, this land was never ceded to the United States government

and then set aside as a reservation. Rather it is held by the band by right of conquest and aboriginal title.

The Red Lake Reservation is unique among Minnesota reservations in that it is a “closed” reservation. All other reservations in Minnesota, as well as most in the country, are “open” reservations, checkered with non-Indian land as a result of allotment.

The Red Lake Band, however, successfully resisted allotment. July 6, 1889 stands as a landmark day in the band’s history. On that day the band signed an agreement with the United States government in which it stipulated that the central reservation would not be allotted but would remain intact.

Said May-dway-gwa-no-nind, leader of the Red Lake band at the time of the 1889 negotiations,

This property under discussion, called Red Lake, is my property. These persons whom you see before you are my children. They own this place the same as I own it. My friends, I ask that we reserve the whole of the lake as ours and that of our grandchildren hereafter. ¹⁴

One hundred years later, May-dway-gwa-no-nind’s sentiments were echoed by an Ojibway elder,

The Red Lake Nation is one small dot on the map of the U.S. that has never been owned by the white government or settlers. ¹⁵

36. *Treaty between the United States of America and the Chippewas of the Mississippi and Pillager and Lake Winnebagoish bands of Chippewa Indians in Minnesota, concluded May 7, 1864, at the City of Washington.*

Efforts to gather scattered bands of Ojibway on one reservation, thereby opening to lumberman and settlers much of the land reserved in previous treaties, began in 1863 when the consolidated Leech Lake Reservation was established. In the treaty signed March 11, 1863—and

renegotiated May 7, 1864—the Chippewa of the Mississippi agreed to cede six scattered reservations and move to a reservation around Leech Lake. However, before any substantial move occurred, the treaty of 1867—establishing the White Earth Reservation—was negotiated.

The Mille Lacs band and the Sandy Lake band, however, refused to cede their reservations. Their adamant refusal—buttressed by the fact they supported Minnesotans during the United States-Dakota War—resulted in Article 12 of the 1864 treaty:

Owing to the heretofore good conduct of the Mille Lacs Indians, they shall not be compelled to remove so long as they shall not in any way interfere with or in any manner molest the persons or property of the whites... Those of the tribe residing on the Sandy Lake reservation shall not be removed....

37. *Treaty between the United States of America and the Chippewa Indians of the Mississippi, concluded March 19, 1867, at the City of Washington.*

The treaty signed March 11, 1867 was a further effort at consolidation. Part of the Leech Lake Reservation was ceded (some of which was regained in executive orders in 1873 and 1874) and the White Earth Reservation was established.

SELECTED TEXTS

38. Zylff. *The Ponca Chiefs. An Indian's Attempt to Appeal from the Tomahawk to the Courts.* 2nd ed. Boston: Lockwood, Brooks, 1880.

By the terms of the Fort Laramie Treaty of 1868, the land belonging to the Poncas—96,000 acres in northeastern Nebraska—was inadvertently assigned to the Brulé Lakota. In 1876 Congress authorized the removal of the Poncas to Indian Territory to make room for the Brulés. Despite

vigorous protest, 681 Poncas led by Standing Bear were removed. Disease and starvation became their lot in Indian Territory. Standing Bear resolved to lead his people back to Nebraska:

I had been taken by force from my own country to a strange land, and was a captive....I could see nothing ahead, but death for the whole tribe.... I said I will take a small party and start back to my old home. If the soldiers come after us I will not fight. They can do what they please with us.

The arrest of Standing Bear by General Crook, under orders to return the tribe to Indian Territory, led to public outcry in Nebraska. Lawyers in Omaha drew up a writ of habeas corpus to prevent their return, leading to the celebrated case of *Standing Bear v. Crook* in 1879.

39. Edwin H. Allison. *Surrender of Sitting Bull*. 1st ed. Dayton, Ohio: Walker, 1891.

The text was originally published in a newspaper in 1881. Gus Hedderich, a settler at Fort Buford, wrote the story for Allison, who negotiated the surrender. The book, in original printed wrappers, includes a plan of Sitting Bull's lodge.

40. Giffen, Fannie Reed. *Oo-mah-ha Ta-wa-tha (Omaha City) 1854-1898* with illustrations by Susette La Flesche Tibbles (Bright Eyes). Lincoln: Neb.: Published by the authors, [1898]. 1st ed.

Contains the treaty with the Omaha in 1854, biographies of chiefs who signed the treaty, Indian folk lore and songs. This book, illustrated and published by Indian women, and with stories and translations by Indian women, is an early example of American Indian women writing books and being involved in their production.

CONCLUSION

In the early twentieth century, most Euro-Americans believed that programs of acculturation were effectively solving the “Indian question.” Such a perception led eminent Minnesota historian, William Folwell, to conclude in 1930, “The Chippewa Indians are a dying race.”¹⁶

Yet, fifty years after Folwell’s statement, Kathleen Westcott, an Ojibway artist from the White Earth Reservation in Minnesota, declared, “Twentieth century Indian people are as distinct and self-determined as they were before contact with European nations.”¹⁷ Such sentiments reflect the strength of Indian culture in spite of a history of deliberate—and shifting—government policy to eradicate it.

In 1994, a young Ojibway woman affirmed the vitality of her tribe,

*We hold on to our customs, living off the land, the right to hunt, fish and gather. It’s part of being able to say I’m Anishinabe, I’m Indian, being able to say I’m proud of it and being able to pass that on to my children.*¹⁸

Two centuries of changing federal policy—referred to in 1981 by U. S. District Court Judge Miles Lord as federal “gyrations”—have not diminished the determination of American Indians to preserve their unique cultures and ways of life, their tribal governments, their lands, and their sovereignty.

ENDNOTES

1. Rennard Strickland, *Fire and the Spirits* (Norman: University of Oklahoma Press, 1975), 65.
2. John Ross, "Annual Message, Oct. 13, 1828," *The Papers of Chief John Ross*, ed. Gary E. Moulton, 2 vols. (Norman: University of Oklahoma Press, 1985), 1:143.
3. Secretary of War John H. Eaton to Cherokee delegation, April 18, 1829. National Archives Record Group 75, Office of Indian Affairs, Letter Book no. 5., 408-12.
4. Strickland, 8.
5. Michael D. Green, *The Politics of Indian Removal* (Lincoln: University of Nebraska Press, 1982), 125.
6. Angie Debo, *A History of the Indians of the United States* (Norman: University of Oklahoma Press, 1970), 232.
7. Michael D. Heaston, "Double Deception: Lester Hargrett and His Indian Treaties," *The Princeton University Library Chronicle* 45 (Autumn 1983): 41.
8. *Annual Report of the Commissioner of Indian Affairs, 1853*. 33rd Cong., 1st Sess., 1853-54. S. Ex. Doc. 1. Serial 690:363.
9. Helen Hunt Jackson, *A Century of Dishonor* (1885; reprint, Minneapolis: Ross & Haines, 1964), 344.
10. *The Way West*, The American Experience, pt. 1, episode 2 (Boston: WGBH, 1995).
11. *Ibid.*
12. *Ibid.*, pt. 2, episode 4.
13. Marx Swanholm, *Alexander Ramsey and the Politics of Survival* (St. Paul: Minnesota Historical Society, 1977), 11.
14. Charles Brill, *Red Lake Nation: Portraits of Ojibway Life* (Minneapolis: University of Minnesota Press, 1992), 26.
15. *Ibid.*, 9
16. William Watts Folwell, *A History of Minnesota*, 4 vols. (St. Paul: Minnesota Historical Society), 4:323.
17. Kathleen Westcott, at a showing of Indian artists, Minneapolis Institute of Art, June 1982 quoted in Elizabeth Ebbott, *Indians in Minnesota* (Minneapolis: University of Minnesota Press, 1985), 47.
18. *The Woodlands: The Story of the Mille Lacs Ojibwe* (Onamia, Minn.: Mille Lacs Band of Ojibwe Indians, 1994), pt. 2.

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EVERY PART OF THIS COUNTRY
IS SACRED TO MY PEOPLE. EVERY HILLSIDE,
EVERY VALLEY, EVERY PLAIN AND GROVE HAS
BEEN HALLOWED BY SOME FOND MEMORY OR SOME
SAD EXPERIENCE OF MY TRIBE... THE SOIL IS
RICH WITH THE LIFE OF OUR KINDRED.

CHIEF SEATTLE

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