

3.10 Reply of Orlando Brown, Commissioner of Indian Affairs,
11 to the foregoing communication. Jan 26, 1850. Six
12 foolscap pages. Beautifully written.

Department of the Interior,
Office Indian Affairs,
January 26th 1850

Gentlemen:

Having had under consideration your communication of the 17th instant, I now communicate to you my answer thereto.

Your claim to be allowed a commutation in money, at the rate of one dollar and twenty five cents per acre, for the one hundred and forty eight thousand acres of land, proposed to be assigned to you under the second article of the treaty of 1822, for a residence west of the Mississippi, cannot be acceded to nor entertained.

The government stood prepared, at any time, to give your people the lands in question in accordance with the treaty; and several tracts were offered to them; some one of which, the Department is satisfied, would have well answered the purpose in all respects. Neither was accepted, nor, as I understand, formally refused by them. There was certainly no refusal based on good and sufficient reasons. The Department contemplated establishing your people comfortably, in a district of country by themselves; and, with their consent and cooperation, this could doubtless have easily been accomplished. Without its sanction, however, or even consulting it, so far as I am aware, the Wyandotts determined to act independently for themselves; and, contrary to

the general policy and purpose of the government, to make a different arrangement. They accordingly went among the Delawares, and purchased lands of them, to be paid for out of their own funds, and upon which they took up their permanent residence. This arrangement the President and Senate refused to confirm, though its confirmation was, afterwards, in some way obtained through an act of Congress approved July 25th 1788. Their persistence in this arrangement, amounted, at least, to a refusal to accept lands of the government for a residence, and actually absolved it from the obligation in the treaty. It was the intention of the treaty to give them a tract only for that purpose - to be ended on and cultivated by them - and they have no legal or valid claim to lands under any other circumstances, or for any other purpose; as has frequently been decided by the Department. Under these circumstances, to make the allowance you claim, is indeed, any allowance of the land, would be equivalent to purchasing you a new house, and paying for it out of the Treasury of the United States, which was not contemplated by the treaty, and would be contrary to it.

If the result of the arrangement with the Delawares, have proved disadvantageous - as we doubt they have in a pecuniary point of view, in abstracting a considerable portion of your national funds it was no fault of the government. It was your own act, and gives you no claim to benefit by a different arrangement not contemplated by the treaty of 1753.

The Department is under no obligation to make good any of the consequences of that act. Still less can it consent to be speculated upon. The lands which might have been assigned to you, would, doubtless, have been valuable to you as a residence; but, for any present purpose of the government, they would be of very little value. Your claim as presented cannot therefore be entertained.

While the foregoing are the clear and well considered views of the Department, as to your rights in the matter in question; it is not inclined to bind you down to strict legal obligations; but is disposed to act towards you in a spirit of kindness and liberality. It is willing to admit, that, from your not taking possession of the lands proposed to be given to you, the government, may, and probably will, derive a greater or less degree of benefit; and that, to that extent, whatever it may be, you have an equitable claim. It would be only on this principle that it could feel authorized to compromise with you.

With respect to the individual grants, made by the 15th article of the treaty of 1753, the Department is satisfied that they are, and can, under the circumstances be made, of little or no value to the individuals for whom they were intended. Under the provisions of the treaty, the conventions could be located only in the Indian country, and any location of them would have to be distant from the tribes, which, if the resources desired to take possession of and reside upon them, would probably place them in an isolated and

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separated positions or positions, in which they would not
be willing to be placed. They could not be parted with
without the consent of the President, and such consent
could not be given without an infraction of the settled
policy, if not of our obligations, to exclude entirely
the settlement of our citizens within the country designed
and set apart for the permanent homes of the various
tribes removed, and which may be removed there.
As a matter of justice to the survivors, the Department
would be willing to enter into some equitable arrangement,
by which the benefits intended to be conferred upon them,
could be secured in some other way. As simple, and
probably, as satisfactory a mode as could be resorted to
for the accomplishment of this object, would be to give
them, in their relinquishing their rights, scrip with
which other lands could be located in Missouri and
Iowa, or which they could dispose of for money, if
they so preferred. As however lands in those states
would be more valuable, scrip could not of course be
issued for an equal quantity of land; but only for a fair
proportionate quantity, having reference to the difference
in value.

With respect to the conferring upon the Wyandotte
the privilege of citizenship, this could not be done and
they remain where they are; without breaking down the
barrier which has been erected to secure to our Indian
tribes permanent homes. It would be an entering wedge to
the extension of our settlements into the Indian country,
before the Indians generally would be prepared to become

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citizens themselves; which would again give rise to the same evils and difficulties, which have compelled the transplantation of most of our border tribes from within the States and organized territories. From the beneficial and gratifying results with which, however, the wise and paternal policy of the government towards our Indian tribes is being attended, in the rapid advancement of many of them in intelligence and civilization, it is hoped that the day is not far distant, when large numbers will be able to take their stand side by side with our own people—when whole communities will be prepared to assume the position and dignity, and to enjoy and exercise the rights and privileges, of American citizens; and can be organized into regular territories, and eventually be admitted, as a State or States, into the American Union. But until such time shall have arrived, those that acquire the capacity, and entertain the desire to become citizens, can only be made such by relinquishing all their rights and interests as Indians, and in the Indian country; and taking up their residence in some of the States or organized territories.

The Department entertains doubts whether all the Wyandotte are capable of becoming citizens, though it is aware that they have generally attained a very respectable and gratifying degree of civilization and intelligence. If, on a proper examination into the subject, all should be found capable, there would be no objection to purchasing their present lands at a fair price,

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which could be used for the accommodation of other Indians, and commutating all their other rights and interests for a just consideration, distributing the same equitably among them, and conferring upon them the right of citizenship. They would then be able to go and reside wherever they might prefer, except in the Indian country. If all should not be prepared to become citizens, or a portion should prefer to remain in their present estate, the arrangement suggested could be made with respect to such as are competent and desirous of making the change.

The claim for interest on the improvement money, payable under the fifth article of the treaty of 1822, will require further examination and consideration. It shall however be taken up at the earliest period that other pressing matters of importance will admit; and if found to be fair and just, the Department will recommend it to the favorable consideration of Congress, by which body only it could properly be allowed. In the mean time I have sought to make you acquainted, as promptly as possible, with the views of the office, in relation to the other subjects referred to, which, under the direction of the President, could be arranged by means of a new treaty, if your tribe are disposed to enter into one in accordance with those views.

Yrs. F. A. Hicks,
Geo. S. Clark, +
Jed Walker.

Wyandott Delegation,
now in Washington

Very respectfully
Yours Oth. Laramie

Othman Brown