

TREATY WITH THE QUAPAWS.

OCTOBER 4TH, 1861.

ARTICLES OF A CONVENTION

Oct. 4, 1861. *Entered into and concluded at Park Hill, in the Cherokee Nation, on the fourth day of October, in the year of our Lord, one thousand eight hundred and sixty-one, between the Confederate States of America, by Albert Pike, their Commissioner, with full powers, appointed by the President, by virtue of an Act of the Congress in that behalf, of the one part, and the Quapaw Tribe of Indians, by its Chiefs and warriors, who have signed these articles, of the other part.*

The Quapaws under the protection of the C. S. **ARTICLE I.** The Quapaw Tribe of Indians, and all the persons thereof, do hereby place themselves under the laws and protection of the Confederate States of America, in peace and in war, forever, and agree to be true and loyal to them under all circumstances.

The C. S. assume the protectorate. **ARTICLE II.** The Confederate States of America do hereby promise and firmly engage themselves to be, during all time, the friends and protectors of the Quapaw Tribe of Indians, and to defend and secure them in the enjoyment of all their rights; and that they will not allow them henceforward to be in any wise troubled or molested by any power or people, State or person whatever.

Guarantee to the Quapaws of the country secured to them by treaty with the U. S. **ARTICLE III.** The Confederate States of America do hereby assure and guarantee to the Quapaw Tribe of Indians, the exclusive and undisputed possession, use and occupancy, during all time, as long as grass shall grow and water run, of the country heretofore secured to them by treaty with the United States of America, and which is described in the treaty of the thirteenth day of May, A. D., one thousand eight hundred and thirty-three, as follows, that is to say: "One hundred and fifty sections of land, west of the State of Missouri, and between the lands of the Senecas and Shawnees, not heretofore assigned to any other tribe of Indians;" and as the same was afterwards selected and assigned to said Quapaw Tribe, and is now held and occupied by them; which lands shall not be sold or ceded by said tribe, nor shall any part thereof, to any nation or people, except to the Confederate States, nor to any individuals whatever, except as hereinafter provided, and the same shall vest in the Confederate States, in case the said tribe becomes extinct or abandons the same.

Lands not to be sold or ceded except to the C. S. **ARTICLE IV.** The right is hereby reserved to the Confederate States to select, in any unoccupied part of said country, if they shall desire to do so, a tract of land, one mile square, as a reserve and site for an agency for the said tribe, which shall revert to the said tribe, with all the buildings thereon, whenever it shall cease to be occupied for an agency.

Reservation of land for Indian agency. **ARTICLE V.** The Confederate States shall have the right to establish in the said country such forts and military posts as they may deem necessary, and shall have the right to select for each such fort or post, a tract of land, one mile square, on which such fort or post shall be established:

Forts and military posts.

Provided, That if any person have any improvements on any tract so selected, the value of such improvements shall be paid by the Government to the owner thereof.

ARTICLE VI. No person whatever shall be permitted to settle or reside upon the agency reserve, when it shall have been selected, except by permission of the agent; nor upon any reserve for a fort or military post, except by the permission of the commanding officer; and every such reserve for forts or military posts, shall be within the sole and exclusive jurisdiction of the Confederate States.

No settlement permitted upon the agency reserve or the reserve for forts, &c.

ARTICLE VII. The Confederate States hereby agree that the country hereby secured to the said tribe shall never be included within the bounds of any State or Territory, nor shall any of the laws of any State or Territory ever be extended over, or put in force within, any part of the said country; and the President of the Confederate States, will cause the said tribe to be protected against all molestation or disturbance at the hands of any other tribe or nation of Indians, or of any other person or persons whatever; and he shall have the same care and superintendence over them as was heretofore had by the President of the United States.

The country of the Quapaws not to be included within the bounds of any State or Territory or to be under the laws thereof.

Protection against other tribes or persons.

ARTICLE VIII. The members of the said Quapaw Tribe of Indians shall have the right, henceforward, of hunting and killing game in all the unoccupied country west of the possessions of the Cherokees, Seminoles, Choctaws and Chickasaws, without molestation from any quarter, being, while so engaged therein, under the protection of the Confederate States.

Hunting and killing of game.

ARTICLE IX. There shall be perpetual peace and brotherhood between the Quapaw Tribe of Indians and the Osages, Senecas, Senecas and Shawnees, Mus-ko-kis, Seminoles, Choctaws and Chickasaws, and the bands of Wichitas, Cado-ha-da-chos, Hue-cos, Ta-wa-caros, An-a-dagh-cos, Ton-cawes, Ki-chais, Ai-o-nais, Shawnees and Delawares, living in the country leased from the Choctaws and Chickasaws, and the Pen-e-tegh-ca, No-co-ni, Ta-nei-we, Ya-pa-rih-ca, and Co-cho-tih-ca bands of the Ne-um or Comanches; and every injury or act of hostility which either has heretofore sustained or met with at the hands of the other, shall be forgiven and forgotten.

Perpetual peace and brotherhood between the Quapaws and other tribes.

Injuries, &c., to be forgiven and forgotten.

ARTICLE X. The Quapaw Tribe of Indians, and the said several other nations, tribes and bands shall henceforth be good neighbors to each other, and there shall be a free and friendly intercourse among them. And it is hereby agreed by the said Quapaw Tribe, as has already been agreed by all the others that the horses, cattle and other stock and property of each nation, tribe or band, and of every person of each, is his or its own; and that no person belonging to the Quapaw Tribe, shall or will hereafter kill, take away or injure any such property of another tribe or band, or of any member of any other tribe or band, or in any other way do them any harm.

The Quapaws and other tribes to be good neighbors to each other.

Right of property in horses, cattle, &c.

ARTICLE XI. Especially there shall be perpetual peace and friendship between said Quapaw Tribe and the Osages, Senecas, Senecas and Shawnees, Cherokees, Mus-ko-kis, Seminoles, Choctaws and Chickasaws, and the Chiefs and headmen of the said Quapaw Tribe, shall do all in their power to take and restore any negroes, horses or other property stolen from white men or from persons belonging to either of said nations and tribes; and to catch and give up any person among them who may kill or steal or do any other evil act.

Perpetual peace and friendship with the Osages and other Indian nations.

Return of stolen property.

ARTICLE XII. In order that the friendship now established between the said Quapaw Tribe of Indians and the Confederate States and the other Indian nations, tribes and bands aforesaid, may not be interrupted by the misconduct of individuals or bands of individuals, it is hereby agreed that for injuries done by individuals, no private revenge or retaliation shall take place, but instead thereof, complaint shall be made by the said Quapaw Tribe of Indians, when any individual thereof is

No private revenge or retaliation to be taken for injuries done to the Quapaws.

Mode of redress.

injured, to the agent of the Confederate States for the Osages and other tribes, who shall investigate the complaint, and if he finds it well-founded, shall report the same to the Superintendent, who shall cause the wrong to be redressed, and the person doing to be arrested whether he be a white man or an Indian; and he or they shall be tried for the same agreeably to the laws of the Confederate States, or of the State or Territory against which he may have offended, and be punished in the same manner and with the same severity, as if the injury had been done to a white man. And it is also agreed that if any member of the Quapaw Tribe shall do any injury to the person or property of any white man or of a member of any other nation or tribe, under the protection of the Confederate States, the offender shall be given up to the agent, upon complaint made to him, and on his demand, the wrong shall be redressed by him, and the offender be tried for the offence, agreeably to the laws of the Confederate States, or of the State, Territory or nation against which he may be offended: *Provided*, That he shall be punished in no other manner, nor with any greater severity, than a citizen of the Confederate States, or of such State, Territory or nation would be, if he had committed the same offence.

ARTICLE XIII. It is hereby further agreed that the Chiefs of the Quapaw Tribe shall use every exertion in their power to recover any horses or other property that may be stolen from any citizen of the Confederate States, or from any member of any other Indian nation or tribe under the protection of the Confederate States, by any person or persons whatever, and found within the limits of their country; and the property so recovered shall be forthwith delivered to the owner or to the agent to be restored to him. If, in any case, the right to the property claimed is contested by the person in possession, the agent shall summarily investigate the case, and, upon hearing the testimony of witnesses, shall decide the right to the property, and order it to be detained or delivered up accordingly. Either party may appeal from his decision to the Superintendent, whose decision shall be final in all cases, the property in the meantime remaining in the custody of the agent. If, in any case, the exertions of the Chiefs to cause the restoration of stolen property prove ineffectual, and the agent is satisfied from the testimony that it was actually stolen, or received with knowledge of its being stolen, by any person belonging to the Quapaw Tribe, he shall so report to the Superintendent, with a copy of the testimony, which shall, for that purpose, be always reduced to writing; and the Superintendent shall, if satisfied from the testimony, deduct from the annuity of the Tribe a sum equal to the value of the property stolen.

ARTICLE XIV. The Confederate States hereby guarantee full and fair payment, to the owner, of the actual and full value of all horses and other property stolen from any person or persons belonging to the Quapaw Tribe, by any citizen of the Confederate States, or by any Indian of any other nation or tribe under their protection, in case the same cannot be recovered and restored, and upon sufficient proof being made before the Superintendent, or any agent of the Confederate States, for any such nations or tribes, that such property was actually stolen by a citizen or citizens of the Confederate States, or by an Indian or Indians of any nation or tribe under their protection.

ARTICLE XV. An agent for the Great and Little Osage Tribes, the Quapaws, Senecas, and Senecas and Shawnees shall be appointed by the President, and an Interpreter for the Quapaw Tribe for their protection, and that their complaints may be heard by and their wants made known to the President. The agent shall reside continually in the country of one or the other of said tribes or bands, and the interpreter shall reside

continually amongst the Quapaws, and neither of them shall ever be absent from their posts, except by permission of the Superintendent. Not to be absent without leave.

ARTICLE XVI. None of the braves of the Quapaw Tribe shall go upon the war path, against any enemy whatever, except with the consent of the agent, or unless it be to pursue hostile bands of white men or Indians entering their country and committing murder, robbery or other outrage, when immediate pursuit is necessary; nor shall hold any talks or councils with any white men or Indians without his knowledge and consent. And they especially agree to attend no councils or talks in the country of any people, with whom the Confederate States are at war; and in case they do so, all the benefits secured to them by this treaty shall immediately and forever cease. No war to be waged or councils held, except with the consent of the agent.

ARTICLE XVII. The Confederate States will not permit any improper person to reside or be in the Quapaw country, but only such persons as are employed by them, their officers or agents, and traders, licensed by them, who shall sell to the Quapaws and buy from them, at fair prices, under such regulations as the President shall make from time to time. Who may live in the Quapaw country.

ARTICLE XVIII. No State or Territory shall ever pass laws for the government of the Quapaw people; and except so far as the laws of the Confederate States are in force in their country, they shall be left free to govern themselves, and to punish offences committed by one of themselves against the person or property of another: *Provided*, That if one of them kills another, without good cause or justification, he shall suffer death, but only by the sentence of the Chiefs, and after a fair trial, all private revenge being strictly forbidden. The Quapaws left free to govern themselves.

ARTICLE XIX. Every white man who marries a woman of the Quapaws, and resides in the Quapaw country, shall be deemed and taken, even after the death of his wife, to be a Quapaw and a member of the tribe, so far as to be subject to its laws in respect to all offences committed in its country against the person or property of another member of his tribe, and as not to be considered a white man committing such offence against the person or property of an Indian, within the meaning of the acts of the Congress of the Confederate States. And all negroes or mulattoes, bond or free, committing any such offence in said country, shall in like manner be subject to the laws of the tribe. White man who marries a woman of the Quapaws deemed to be a Quapaw so far as to be subject to the laws of the tribe.

ARTICLE XX. The Confederate States shall have the right to establish, open and maintain such military and other roads through any part of the Quapaw country, as the President may deem necessary, without making any compensation for the right of way, or for the land, timber or stone used in constructing the same; but if any other property of the tribe, or any other property or the improvements of an individual be used or injured therein, just and adequate compensation shall be made. Negroes and mulattoes in like manner subject to the laws of the tribe.

ARTICLE XXI. The Confederate States may grant the right of way for any railroad through any part of the Quapaw country; but the company to which any such right may be granted shall pay to the tribe therefor such sum as shall, in the opinion of the President, be its fair value; and shall also pay to individuals all damages done by the building of said road to their improvements or other property, to such amount in each case as commissioners appointed by the President shall determine. Military and other roads.

ARTICLE XXII. The agent of the Confederate States, for the Osages and other tribes, shall prevent all intrusions, by hunters and others, upon the lands of the Quapaws, and permit no white men or other Indians to settle thereon, and shall remove all such persons, calling, if necessary, upon the military power for aid; and the commanders of military posts, in that or the adjoining country, shall be required to afford him such aid upon his requisition. Right of way for railroads.

Payment of damages to individuals.

Intrusions and settlement upon the land of the Quapaws to be prevented.

The Quapaws may allow other Indians to settle among them.

ARTICLE XXIII. The Quapaws may allow persons of any other tribe of Indians to settle among them, and may receive from them for their own benefit, compensation for such lands as they may sell or assign to such persons.

Who not to pasture stock on their lands.

ARTICLE XXIV. No citizen or inhabitant of the Confederate States or member of any friendly nation or tribe of Indians, shall pasture stock on the lands of the Quapaws, but all such persons shall have full liberty,

Liberty given to travel in their country, and drive stock through the same.

at all times, and whether for business or pleasure, peaceably to travel in their country, on the roads or elsewhere, to drive their stock through the same, and to halt such reasonable time on the way as may be necessary to recruit their stock, such delay being in good faith for that purpose and no other.

Surrender of fugitives from justice.

ARTICLE XXV. Any person duly charged with a criminal offence against the laws of the Confederate States, or of any State or Territory, or of any Indian nation or tribe under the protection of the Confederate States, escaping into the Quapaw country, shall be promptly taken and delivered up by the Chiefs of the Quapaws, on the demand of the proper authority of the Confederate States, or of the State, Territory, nation or tribe within whose jurisdiction the offence shall be alleged to have been committed.

Laws declared to be in force in the Quapaw country.

ARTICLE XXVI. In addition to the laws of the Confederate States, expressly applying to the Indian country, so much of their laws as provide for the punishment of crimes amounting to felony at common law, or by statute against their laws, authority or treaties, and over which the courts of the Confederate States have jurisdiction, including the counterfeiting the coin of the United States, or of the Confederate States, or any other current coin, or the securities of the Confederate States, or the uttering of such counterfeit coin or securities; and so much of said laws as provides for punishing violations of the neutrality laws, and resistance to the process of the Confederate States; and all the acts of the provisional Congress providing for the common defence and welfare, so far as the same are not locally inapplicable; and the laws providing for the capture and delivery of fugitive slaves, shall be in force in the Quapaw country; and the district court for Chalahki district, when established, shall have exclusive jurisdiction to try, condemn and punish offenders against those laws, to adjudge and pronounce sentence, and cause execution thereof to be done.

Jurisdiction of district court for the Chalahki district.

Any of the Quapaws indicted in any court of the C. S. or State court entitled to process for witnesses.

ARTICLE XXVII. Whenever any person, who is a member of the Quapaw Tribe, shall be indicted for any offence in any court of the Confederate States, or in a State court, he shall be entitled, as of common right, to subpoena, and, if necessary, to compulsory process for all such witnesses in his behalf as his counsel may think material for his defence; and the costs of process for such witnesses, and of the service thereof, and fees and mileage of such witnesses shall be paid by the Confederate States; and whenever the accused is not able to employ counsel, the court shall assign him one experienced counsel for his defence, who shall be paid by the Confederate States a reasonable compensation for his services, to be fixed by the court, and paid upon the certificate of the judge.

Costs of process paid by C. S.

When accused may be assigned counsel.

Existing laws, usages and customs in regard to slavery, declared binding.

ARTICLE XXVIII. It is hereby declared and agreed that the institution of slavery in the said Quapaw Tribe is legal and has existed from time immemorial; that slaves are personal property; that the title to slaves and other property having its origin in the said tribe is to be determined by the laws and customs thereof; and that the slaves and personal property of every person domiciled in the country of said tribe shall pass and be distributed at his or her death, in accordance with the laws, usages and customs of the said tribe, which may be proved by oral

evidence, and shall everywhere be held valid and binding within the scope of their operation. And if any slave escape from said tribe, the laws of the Confederate States, for the capture and delivery of fugitive slaves, shall apply to such cases, whether they escape into a State or Territory or into any Indian nation or tribe, under the protection of the Confederate States; the obligation upon each such State, Territory, nation or tribe to deliver up the same being in every case as complete as if they had escaped from a State, and the mode of procedure the same.

ARTICLE XXIX. The Quapaw Tribe of Indians hereby makes itself a party to the existing war between the Confederate States and the United States of America, as the ally and ward of the former; and, in consideration of the protection guaranteed by this treaty, and of their common interests, hereby agrees to aid in defending its country against any invasion thereof by the common enemy; and it is agreed that all warriors furnished by it for the service of the Confederate States, and which shall be mustered into that service, shall receive the same pay and allowances as other troops of the same class therein, and remain in the service as long as the President shall require.

ARTICLE XXX. The Confederate States hereby agree to furnish each warrior of the Quapaw Tribe, who has not a gun, with a good rifle, and also to furnish each warrior with a sufficient supply of ammunition during the war.

ARTICLE XXXI. The Confederate States will also furnish the Quapaws, at a proper place, with such medicines as may be necessary, and will employ a physician for them and for the Senecas and Shawnees, who shall reside at a convenient place in the country of one or the other tribe, during the pleasure of the President; and any physician employed shall be discharged by the Superintendent, and another be employed in his place, in case of incompetency or inattention to his duties.

ARTICLE XXXII. In consideration of the uniform loyalty and good conduct of the Quapaw Tribe, and of their necessities, arising from the sale by them of their lands in Arkansas for a grossly inadequate price, by the treaty of the year one thousand eight hundred and twenty-four, the Confederate States hereby agree to expend, for the benefit of the Quapaws, in each year, for and during the term of twenty years from the day of the signing of this treaty, commencing with the year one thousand eight hundred and sixty-two, the sum of two thousand dollars, which shall be applied each year by the Superintendent to the purchase of articles costing that sum at the place of purchase in the Confederate States, to consist of blankets, clothing, tobacco, household and kitchen furniture and utensils, and other articles of ease and comfort for the Quapaws, which shall be distributed among them by the agent, as equally as possible, regard being had in the distribution to the character for industry or idleness, and good or bad conduct, on the part of the recipient, as well as the necessities of each, so that the good and the needy shall be preferred; and in determining which, the agent shall pay due respect to the opinions and judgment of the chiefs.

ARTICLE XXXIII. The Confederate States also agree to employ a blacksmith for the Quapaws, for and during the term of twenty years from the date of this treaty, and an assistant, who shall be one of the Quapaw people, and receive a compensation of two hundred and fifty dollars per annum. And they will also furnish the blacksmith with a dwelling house, shop and tools, and supply the shop with coal, and with six hundred pounds of iron, and one hundred pounds of steel, annually.

ARTICLE XXXIV. The Confederate States will also employ one wagon-maker and wheelwright for the Quapaws, for and during the term of

The Quapaw Tribe makes itself a party to the existing war and agrees to furnish aid.

Pay of warriors.

How long to serve.

Rifle and ammunition for each warrior.

Medicines and medical services.

The C. S. agree to expend for the Tribe. \$2,000 annually, for twenty years.

How fund to be applied.

Blacksmith and assistant.

Compensation.

Shop and tools. Coal, iron and steel.

Wagon maker and wheelwright.

Shop, tools and materials. twenty years from the date of this treaty, and furnish him with a dwelling house, shops, tools and the necessary materials.

Grist and saw mills. ARTICLE XXXV. The Confederate States hereby agree to build and put in running order for the Quapaws, at some suitable point in their country, to be selected by the agent, a good grist and saw mill, and to deliver the same, when completed, to the Quapaw people, whose absolute property it shall at once become. And the Confederate States will also employ, for the term of ten years, an experienced miller for each mill, to be selected, if possible, from among the Quapaws, and if such millers can be had at a compensation not exceeding six hundred dollars per annum for each.

Millers.

Compensation.

Wagons and harness, oxen and horse gear. ARTICLE XXXVI. The Confederate States also further agree to purchase, for the Quapaws, four good wagons and harness for four horses for each wagon, ten yoke oxen, and ten sets of horse gear complete, to be delivered to the chiefs, and used for the general benefit of their people.

Annual payment for the education of the Quapaw children. ARTICLE XXXVII. The Confederate States also further agree perpetually to pay regularly and annually hereafter, the sum of one thousand dollars for education of their children, provided by the treaty of the thirteenth day of May, A. D., one thousand eight hundred and thirty-three, and also to add to that sum in each and every year the further sum of one thousand five hundred dollars; which sums shall be payable on the first day of January in each year, commencing with the year one thousand eight hundred and sixty-two, and shall be applied by the agent to the education of Quapaw children and youths in the Osage Manual Labor School, until an institution of learning can be, with the aid of this perpetual fund, established in the country of the Quapaws.

Annuity to the Chiefs. ARTICLE XXXVIII. Inasmuch as the Quapaws have no fund out of which to pay the salaries of their Chiefs, or the expenses of their government, the Confederate States further agree to pay to each of the present Chiefs, Wat-ti-shi-nek Kat-eh-de, the first Chief, and Ka-hi-keh-tih-te, the second Chief, for each year, and during his natural life, an annuity of one hundred dollars in money per annum, payable on the first day of January in each year, commencing with the year one thousand eight hundred and sixty-two.

Trader purchasing articles given to Quapaws, to be punished. ARTICLE XXXIX. If any trader or other person should purchase from any Quapaw any of the chattels or articles given him by the Confederate States, he shall be severely punished.

General amnesty. ARTICLE XL. A general amnesty of all past offences against the laws of the United States or of the Confederate States, committed before the signing of this treaty, by any member of the Quapaw Tribe, as such membership is defined in this treaty, is hereby declared; and all such persons, if any, charged with such offence, shall receive from the President full and free pardon, and if imprisoned or held to bail, before or after conviction, shall be discharged.

When this treaty to take effect. ARTICLE XLI. This convention shall be obligatory on the Quapaw Tribe of Indians from the day its date, and on the Confederate States from and after its ratification by the Senate or provisional Congress.

In perpetual testimony whereof, the said Albert Pike, as Commissioner, with plenary powers, on the part of the Confederate States, doth now hereunto set his hand and affix the seal of his arms; and the undersigned, Chiefs and headmen of the Quapaw Tribe of Indians, do hereunto set their hands and affix their seals.

{ SEAL. }

This done in duplicate, at the place, and upon the day, in the year first aforesaid.

ALBERT PIKE,

Commissioner of the Confederate States to the Indian nations west of Arkansas.

WAT-TI-SHU-NEK-KAT-EH-DE, MOS-KA-ZI-KA,
Principal Chief of the Quapaws. A-HI-SUT-TA,
 GEORGE LANE, NIK-KAT-TOH,
 ELIJAH H. FIELDS, MO-ZEK-KA-NE,
 NOT-TET-TU, S. G. VALLAR,
 KA-NI, R. P. LOMBARO.

Signed, sealed and delivered in presence of us.

WM. QUESENBURY,
Secretary to the Commissioner.
 E. RECTOR,
Superintendent Indian Affairs Confederate States.
 ANDREW J. DORN,
Confederate States Agent for the Quapaws, etc.
 W. WARREN JOHNSON,
 R. H. BEAN,
 J. W. WASHBOURNE.

To the Indian names are subjoined marks.

RATIFICATION.

Dec. 21, 1861.

Resolved, (two-thirds of the Congress concurring,) That the Congress of the Confederate States of America, do advise and consent to the ratification of the articles of a convention, made by Albert Pike, Commissioner of the Confederate States to the Indian nations west of Arkansas, of the one part, and the Quapaw Tribe of Indians, by its Chiefs and warriors, who signed the same articles of the other part, concluded at Park Hill, in the Cherokee Nation, on the fourth day of October, in the year of our Lord, one thousand eight hundred and sixty-one, with the following

Ratification by Congress of the foregoing treaty with the Quapaws.

AMENDMENT:

Amendment.

Strike out from article twenty-seven, the following words: "or in a State court," and insert in lieu thereof the following words: "or in a State court, subject to the laws of the State."

NOTE.—The amendment was agreed to and ratified by the Quapaws as a part of the treaty.