

JOHN H. MOREHEAD
1ST DIST. NEBRASKA
FALLS CITY, NEBR.

WASHINGTON ADDRESS:
ROOM 447, H.O.B.

Congress of the United States
House of Representatives
Washington, D.C.

June 15, 1934

Dunn
Hon. Lester L. Dunn,
Bankers Life Bldg.,
Lincoln, Nebraska

Dear Mr. Dunn:

Referring further to your letter of May 24th, I am enclosing, herewith, result of research work which I had done by the Library of Congress, concerning the Council Tree in which you are interested.

I trust this material will be of much value to you; and am glad to have been of assistance.

With best wishes, I am,

Yours truly,

John H. Morehead
JOHN H. MOREHEAD, M.C.

JHM/M

31-June-1953
Lester L. Dunn

LIBRARY OF CONGRESS
WASHINGTON

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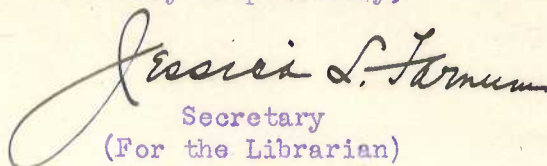
June 12 1934

Sir:

Your letter of May 30, addressed to the Librarian Congressional Reading Room, has been referred to this office by Mr. Roberts, the Superintendent of the Reading Room, together with the appended memorandum regarding the Indian Cave and Council Tree near Barada, Richardson County, Nebraska, prepared to meet the inquiry of Lester L. Dunn, Esq., of Lincoln, Nebraska, whose letter to you is returned herewith.

We trust that this report will prove of service to Mr. Dunn. As Mr. Roberts suggests, it might be well to communicate with the U. S. Office of Indian Affairs in regard to the Council Tree, and with the Nebraska Historical Society, or some other local organization, as to the Indian Cave.

Very respectfully,


Secretary
(For the Librarian)

(Enclosure)

Hon. John H. Morehead
Room 447
House Office Building

MEMORANDUM

TO THE
LIBRARIAN OF CONGRESS

FROM THE
Superintendent of the
Reading Room

REFERRING TO letter from
Hon. John H. Morehead
U. S. House of Representatives

June 11, 1934

dated--
May 30, 1934

enclosing letter from
Mr. Lester L. Dunn
Lincoln, Nebraska

THE INDIAN CAVE AND COUNCIL TREE NEAR BARADA, RICHARDSON
COUNTY, NEBRASKA

The literature which bears upon the history of the Indian tribes of southeastern Nebraska is very extensive; in our search concerning the Indian Cave and the Council Elm Tree near Barada, Richardson County, in which Mr. Dunn is interested, we have not attempted to exhaust this material, but we have made a very considerable search in it, without, however, discovering anything very definite concerning either of these landmarks. Certain facts do, nevertheless, appear; and, since these constitute the general history (as regards Indian tenure) of the country in which the Indian Cave and the Council Tree are situated, and since they perhaps indicate the direction for further research in this matter, we narrate them below.

By the Treaty of Prairie du Chien, concluded on July 15th, 1830, between the United States and certain deputations of Sacs, Foxes, Sioux, Omahas, Ioways, Ottoes and Missourias (7 U. S. Statutes at Large 328-332), these tribes relinquished their rights to lands east of the Missouri. The tenth article of the Treaty was as follows:

Article X. The Omahas, Ioways and Ottoes, for themselves, and in behalf of the Yanckton and Santie Bands of Sioux, having earnestly requested that they might be permitted to make some provision for their half-breeds, and particularly that they might bestow upon them the tract of country within the following limits, to wit; Beginning at the mouth of the Little Ne-mohaw River, and running up the main channel of said River to a point which shall be ten miles from its mouth in a direct line; from thence in a direct line, to strike the Grand Ne-mohaw ten miles above its mouth (the distance between the two Ne-mohaws being about twenty miles)-- thence down said River to its mouth; thence up, and with the meanders of the Missouri River to the point of beginning, it is agreed that the half-breeds of said Tribes and Bands may be suffered to occupy said tract of land; holding it in the same manner, and by the same title that other Indian titles are held: but the President of the United States may hereafter assign to any of the said half-breeds, to be held by him or them in fee simple, any portion of said tract not exceeding a section, of six hundred and forty acres to each individual ...

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- 2 -

It is worth noting here that Mauhoos Kan ("White Cloud") was one of the Ioway chiefs signatory to this Treaty.

"This tract was exclusively within the territory of the Oto, and they were proportionately compensated therefor by the other tribes interested in the concession. The boundary of this tract was first surveyed in 1837-38 by McCoy and shows the reserve to contain 143,647.33 acres. Between 1855 and 1858 the boundary was several times resurveyed". (C. C. Royce: Indian land cessions in the United States. In Eighteenth annual report of the Bureau of American ethnology, 1896-97, part 2, p. 727.)

In 1853, in consequence of an Act of Congress of March of that year, George W. Manypenny, Commissioner of Indian Affairs, made a visit to the Indian country, with the view of exploring it and of obtaining information preliminary to negotiating treaties for extinguishing the Indian titles to their tribal lands. He is known to have visited at the Great Men^a Agency the reservations of the Ioways, Sacs and Foxes of the Missouri south of the Great Menaha River. (Annual Report of the Commissioner of Indian Affairs, November 26, 1853, p. 247. Sen. Doc. 1, 33d Cong., 1st Sess.); he probably, therefore, also visited the contiguous reservation of the Half-Breeds north of the Great Menaha. In each reservation which he visited he held councils; possibly it is to these that Mr. Dunn's Council Elm has reference.

In September, 1853, D. Vanderslice, agent at the Great Nemahaw Agency reported (ibid., p. 327):

The half-breeds, located between the Little or Upper and the Great Nemahaw rivers, number about sixty, including all the members of their families.

They have made some advances toward civilization, as is evinced by their being comfortably housed; having large fields under good fences, and a considerable stock of cattle and hogs, &c.

A transition from the savage life to that of a citizen of an organized government will be an easy matter with them; and a fee-simple right to a section of land, as contemplated by the treaty which established them where they are, is all that is required on the part of the government to fulfill its obligations towards them.

Several of the children of these half-breeds attend the school of the Ioway and Sac mission.

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- 3 -

Pursuant to this report an Act of Congress was approved July 31, 1854 (10 U. S. Statutes at Large 315-333) containing the following provision:

Sec. 5. [4.] And be it further enacted, That the President be, and he is hereby, authorized and required to cause to be fulfilled the stipulations and of the ninth and tenth articles of the treaty with the Sacs and Foxes, and other tribes of Indians, concluded on the fifteenth of July, one thousand eight hundred and thirty, by causing said reserved tracts to be surveyed and allotted to the persons entitled to the same, in fee simple, in such manner and under such rules and regulations as he may prescribe ...

The Commissioner of Indian Affairs reported in November, 1856 that

Measures have been adopted to take a census of the half-breeds who are entitled to participate in the beneficial provisions of the 10th article of the Treaty of Prairie du Chien, of the 15th July, 1830, to the end that the President may assign to each of them his or her portion of the reserve situate between the Big and Little Nemaha rivers, in Nebraska Territory. (Report of the Commissioner of Indian Affairs for the year 1856. Washington, 1857. p. 9.)

In order to settle disputes concerning the western boundary of the reserve the McCoy line of 1838 was established by virtue of an Act of Congress approved June 12, 1858 (11 U. S. Statutes at Large 327):

Sec. 13. And be it further enacted, That the line surveyed by John C. McCoy, in eighteen hundred and thirty-eight, as the western boundary of the half-breed tract, specified in the tenth article of the treaty made between commissioners on the part of the United States, and certain Indian tribes at Prairie du Chien, on the fifteenth of July, eighteen hundred and thirty, be, and the same is hereby established as the true western boundary of said tract.

But the Commissioner found that the shifting of the bed of the Missouri toward the west had rendered this line obsolete and inequitable for purposes of carrying out the provisions of the treaty. He reported in November, 1858 (Report of the Commissioner of Indian affairs for the year 1858. Washington, 1858, p. 14):

0-1695

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- 4 -

I beg leave to state that it has been clearly and satisfactorily ascertained that said line is not in accordance with the positive and specific requirements of the treaty, and that if the above quoted provision is to prevail, the Indians interested will be deprived of over seventeen thousand acres of land to which they are justly entitled by the treaty, which is and should be regarded as the supreme law.

Further legislation was accorded, in an Act of Congress, approved February 28, 1859 (11 U. S. Statutes at Large 401):

Sec. 6 And be it further enacted, That [if] in adjusting the claims of half-breed Indians under the tenth article of the treaty of Prairie du Chien ... there shall be found a deficiency in the quantity of land necessary to carry out the intentions of said treaty, then there shall be retained out of the proceeds of that portion of the public lands excluded from said reservation, as said half-breeds claimed its boundaries by the McCoy survey and the thirteenth section of said act of July twelfth, eighteen hundred and fifty-eight, so much money as shall equal that deficiency, estimating the same at one dollar and twenty-five cents per acre; which said sum of money shall be paid to the Secretary of the Interior, to be held by him in trust for such of said half-breeds as shall be found entitled to it, and by him be paid to them or invested for their benefit, as he shall think most judicious and proper, after the said mixed bloods shall have relinquished to the United States all their interest in and to said deficiency in said reservation.

Under these various enactments allotments were now made, and are recorded in a separate volume in the U. S. General Land Office bearing the following caption:

Description of the selections and allotments of lands made for the Half-Breeds and Mixed-Bloods of the Omahas, Iowas and Ottoes and Yankton and Santee Bands of Sioux, in conformity with the stipulations of the 10th article of the Treaty of Prairie du Chien of July 15th, 1830, and of the 5th [4th] section of the Act of Congress approved July 31st 1854 entitled "An Act making appropriations for the current and contingent expenses of the Indian Department".

The list of selections follows; three persons named "Whitecloud" are involved; they are nos. 39, 40 and 135 in the list: Robert, Frank, and Thomas

9-1695

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- 5 -

Whitecloud; their allotments all fall in townships 1 North, Ranges 17 and 18 East -- some distance from the Indian Cave.

The list bears date of submission by the Commissioner of Indian Affairs to the Secretary of the Interior, March 14, 1860, and of approval by the Secretary, March 19, 1860.

In November, 1860, the Commissioner of Indian Affairs reported (Annual report ... 1860. Washington, 1860. p. 14):


... Lands have been assigned to 389 Indians of mixed blood, under the provisions of the tenth article of the treaty of Prairie du Chien, of July 15, 1830, for which it understood that patents will be issued at an early day.

Thus the lands comprising the country which included the Indian Cave and the Council Tree were granted to individuals in severalty, and the further history of their title should be part of the local records of the State and County.

It may be noted, that in addition to the White Clouds already mentioned, the first chief of the Iowa Tribe (at the Great Nemaha Agency) in 1848 was "White Cloud, known among the Indians by the name of Wi-e-wa-ha, or good disposition" (Schoolcraft: Information respecting the history, condition and prospects of the Indian tribes of the United States. Part III. Philadelphia, 1853, p. 264). We have not investigated the later history of this chief, but it is possible (if he lived that long) that he may have taken up lands in Richardson County under the treaties of May 17, 1854 or March 6, 1861 between the United States and the Ioways.

We suggest that information concerning the Indian Cave may possible be secured from local sources. The Nebraska Historical Society at Lincoln may have information available respecting it. If the Council Tree was so designated in Washington, this would have been in the Office of Indian Affairs, where some information respecting it might possibly be discovered.

Respectfully submitted,


Superintendent of Reading Room.

COUNTY JUDGE NEMAHA COUNTY
AUBURN, NEBRASKA

Oct 27, 1934.

NEBRASKA STATE
HISTORICAL SOCIETYDr. A.E. Sheldon, Sec.
Lincoln, Neb.

Dear Dr. Sheldon; While I have never registered as a member of the Historical Society of Nebraska, I have been interested in the Historical events at your various meetings. I have been anxious to find something of historical interest in Nemaha County, but have had in mind only relics. In connection with my business as an abstractor in this county for a number of years I have had occasion to familiarize my self with what is known as the half-breed tract which consists of a large tract of land extending for ten miles through Nemaha County, and a number of miles in Richardson County. Which was ceded by the 10th Article of the Treaty of Prairie-du Chien, concluded July 15th, 1830 approved by act of Congress July 31st, 1854. Under the provisions of the treaty the lands involved was allotted to the various individuals of the half-breeds and mixed bloods of Omahas, ~~xx~~ Ioways, and Ottoes and Yanceton and Sante Bands of Sioux and each was allotted Specific land to the extent of a half Section. From my observation the title did not remain in the individual Indian very long after he received his certificate of allotment. The abstract office with which I was formerly connected has a List of the several allotments together with Photo Static copy of the Treaty. Should you consider the matter of interest to your Society I will be glad to furnish such information as I can concerning the matter.

Respectfully.

C. O. Snow

OFFICE OF
COUNTY JUDGE NEMAHA COUNTY
AUBURN, NEBRASKA

Nov. 8, 1934.

Dr. A.E. Sheldon, Secy.
Lincoln, Nebraska.
Dear Dr Sheldon;

Refering to your letter of Oct 29 concerning History of the Half-breed Tract in Nemaha and Richardson Counties; In calling your attention to the matter I had not contemplated preparing the history myself, but rather to give such information as I have to some one who would write it.

After thinking the matter over I think I could prepare a very accurate history so far as title to the land granted is concerned and the steps taken by the Government to carry out the provisions of the Treaty, but have no information concerning the matters leading up to the entering into the Treaty more than ~~than~~ the facts recited in the Treaty.

I have written to the Department of the Interior for information concerning the cost of necessary Government Records, Plats & c.

The Nemaha Abstract Co. will furnish me a copy of the Original Treaty, but the original copy of List of Indians and allotment of Lands I would have to copy from the files in their office.

All plats that I have ever had access to of the Government survey is in Township plats and it would take three to township plats in this county. I am wondering if the Plats referred to in your letter are available at Lincoln, so that a plat of the entire tract could be secured. If the Cost of Certified copies from the Department at Washington is not too great I think I can secure every thing necessary.

Will either write or confer with you concerning the matter later on.

Respectfully.

C. O. Snow

Lincoln, Nebraska
November 9, 1934

Judge C. O. Snow,
Auburn, Nebraska.

My dear Judge:

Thank you for your letter and your promise of November 8. I am sure that you are the man to do this important piece of Historical work and that you will find abundant reward in many ways for doing it.

I sent one of my students down to the Land Commissioner's Office, and he returns the following memorandum: "State Surveyor's Office has:

Original plat of Half-Breed Tract, boundaries surveyed by Isaac McCoy, 1837-8, subdivisional survey of reserve by Michael McManus, 1856.

Information on allotment, compiled about 1908, to Ioways, Otoes, Omahas, Yankton, Santee. Nothing on individuals at any time."

I think we have here in the State Capitol a copy of all the documents relating to the Half-Breed strip which they have there. We can have photostatic copies of them made for your use and will be glad to do so.

One of the important things which apparently we do not have, and which may be in the documents of the Indian Bureau at Washington, is a list of individuals who were allotted lands under the Half-Breed strip Act, and the location of their claims upon the land. Such a map is used by Francis LaFlesche in his History of the Omaha tribe and its application to the Omaha reservation. I am quite sure that somewhere there is in condensed form such a map or such a list for the Half-Breed strip in Richardson County.

If you will start in on the project and make up a memorandum of things that you would like to have, we will try to get them and send them to you.

of 1904. Sincerely yours, 1904.

Secretary and Superintendent

AES: S

OFFICE OF

COUNTY JUDGE NEMAHA COUNTY
AUBURN, NEBRASKA

Nov. 12, 1934.

Dr. A.E. Sheldon Sec.
Lincoln, Neb.
Dear Dr. Sheldon.

I have your letter of the 9th, and thank you for the information, and will likely trouble ^{you} often, before the task is completed. I called at your office on the 10th hoping to be able to talk with you I should have known better than to come on such a day; I feel sure that I will be able to ^{get} evry thing necessary to a proper showing so far as it affects the title to realestate.

The Plat and survey which you found in Lincoln is on file in this county certified by Dan Swanson Commissioner &c.

The plat shown therein however only shows that part in Nemaha County, but Richardson County can be secured from the same source.

The plats shown are of the Sections only and the same are not divided into lots and the lots shown.

Due to the fact that the East line follows the meanderings of the Nemahas and the M^c. River and the West line is a diagonal line the sections are so badly cut up that a showing of the lots is necessary.

T.C. Daugherty our County Surveyor has volunteered to furnish me a plat showing the entire tract and with the lot numbers inserted which he will prepare and donate.

From the record which you found in Lincoln of which we have a copy the first survey was made by J.C. McCoy 1837 & 38.

Justin Cozad 1855 Wm. H. Goowin 1856 & 57

Alexander Olaphant 1858. ; The number of surveys and the changing of lot numbers makes it very hard to show correctly.

I have Photo Copy of the original Treaty which will be donated by the Nemaha County Abstract Company; I also have access to their copy of the list of allotments and Census taken in 1854; I am hoping to

OFFICE OF

COUNTY JUDGE NEMAHA COUNTY
AUBURN, NEBRASKA

2

be able to secure a certified copy from the Department of Interior but have not heard from them yet.

The list we have covers only Nemaha County and is not complete as to that. The list we have is from the Falls City office and I can secure anything additional which they have there if I do not get it from the department. I feel sure I can secure everything necessary but if not will consult you. Article ~~XI~~ of the treaty provides for the payment in money or merchandise at cost for a period of ten years and as it would have no bearing on the title I have no information concerning whether or not such payments were made, but if the information is available I would think it should be embodied in the history.

If you have any information or know how to secure the same I would be glad to have the information, if in your judgment it should be covered. As soon as I can secure the necessary exhibits I will try and arrange for a meeting with you and submit them to you. I will endeavor to go over the other Indian History's you mention as soon as I can conveniently.

Respectfully.

November 13, 1934.

Judge C. O. Snow,
Auburn, Nebr.

My Dear Judge:

Your letter is most encouraging I am sure - more so than ever - that you can make a valuable contribution. Without spending time to look up the record, I am quite sure the payments provided for in the treaty were duly made.

It seems to me one of the most interesting parts of your story will be that part in which you show how the original plan to make a permanent settlement of part white, part Indian people in Southeastern Nebraska was defeated by the purchase of the original claimants title by white men. I think there are still a few descendants of the mixed bloods living there, but the original project seems to have failed.

Sincerely yours,

AS:C

OFFICE OF
COUNTY JUDGE NEMAHA COUNTY
AUBURN, NEBRASKA

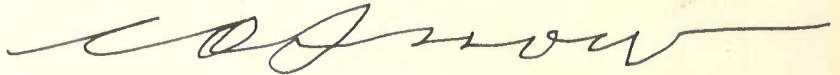
Nov. 25, 1934

NEBRASKA STATE
HISTORICAL SOCIETY

Dr. A.E. Sheldo ,
Lincoln, Neb.
Dear DR. Sheldon;

In going over a History of Nemaha County, published
by John H. Dundas in 1902, I find frequent mention of Robert W. Furnas
which I thought you might be interested;
His aid to a dyeing man killed while trying to arrest a fugative slave;
His starting a newspaper in Brownville, and being appointed on a
committe to go to Washington in an effort to secure a land grant for
Rail Road .
I think likely you will have the history in your society,; If not
and you desire I will send the copy which I have and donate it to the
society if they ^{do} not have a copy.
As suggested by you I have written Senator Norfis in connection with
the history of half breed tract.

Respectfully.



L - C
63078-34UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTONNEBRASKA STATE
HISTORICAL SOCIETYHon. C. O. Snow,
County Judge Nemaha County,
Auburn, Nebraska.

JAN - 9 1935

My dear Judge Snow:

The receipt is acknowledged of your letter of December 26, 1934, requesting further information in regard to the half breeds' reservation granted to mixed bloods of certain tribes under the tenth article of the treaty of Prairie du Chien.

You refer to the fact that the treaty provided that the half breeds should receive fee title to not exceeding a section of 640 acres. Certain discretion was placed in the President as to the area which should be allotted to the Indians mentioned. However, the area was not to exceed 640 acres, making it possible to allot them a smaller area, should conditions warrant.

The reservation for these Indians was surveyed by I. C. McCoy during the year 1838. The lines were retraced in 1855, and again in 1856. It was then discovered that the McCoy line was erroneous, as it extended westward but a little more than eight miles, whereas it should have been ten miles in a direct line. After taking a census of the Indians it was found that the area to be allotted each was 320 acres. By letter of instructions of August 4, 1857, to William M. Starke, Esq., the Commissioner of Indian Affairs authorized the allotment of the land in areas of 320 acres each instead of 640 acres. This was because of the fact that Congress by section 13 of the Act of June 12, 1858 (11 Stat. L., 319-327), established the McCoy line as the true western boundary. The instructions mentioned are written in longhand in the record book of letters of this Office, and it will be necessary to photostat five pages. This at 15 cents per page will amount to 75 cents. This will necessitate considerable reduction in the size of the pages, making it somewhat difficult to read. Should you desire pages of the full size of the book you should transmit \$1.50, as the statutory price of such pages is 30 cents per page.

Sincerely yours,


Commissioner

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1 Enc.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

WASHINGTON FEB 20 1935

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IN REPLY PLEASE REFER TO

1588421 "E" WSW

Information.

Hon. C. O. Snow,
County Judge Nemaha County,
Auburn, Nebraska.

My dear Sir:

By appropriate reference from the Surveyor, District of Columbia, dated February 2, 1935, through Mr. C. G. Tudor, Chief, Division of Surveys of this office, I have received your letter dated January 30, 1935, relative to a plat of the half-breed tract in southeastern Nebraska, ceded under the treaty of Prairie du Chien July 15, 1830 (7 Stat. 328).

There are on file in this office two diagrams, about 32 inches square in size, prepared in the office of the Surveyor General, showing the Half-Breed Reservation situated between the Great and Little Nemaha Rivers in Kansas and Nebraska. The plat approved March 15, 1858, returns the area as 137,988.36 acres, and the plat approved

51

October 27, 1858, returns an area of 120,675.91 acres.

On page 727, Indian Land Cessions in the United States, compiled by Charles C. Royce, under the heading "Historical Data and Remarks," relative to said half-breed lands, the following is found:

"This tract was exclusively within the territory of the Oto and they were proportionally compensated therefor by the other tribes interested in the cession. The boundary of this tract was first surveyed in 1837-38 by McCoy and shows the reserve to contain 143,647.33 acres. Between 1855 and 1858 the boundary was several times resurveyed. To quiet disputes, the act of Congress of June 12, 1858, reestablished the McCoy line as the true boundary. Owing to encroachments of the Missouri River, the tract then contained only 120,681.59 acres. The tract between the McCoy line and the line of 1858, which ran farther west, was sold by the act of February 28, 1859, for the benefit of the Half-Breeds."

Photostat copies of the above diagrams may be obtained from this office in four sheets at 40 cents per sheet, total \$1.60 for each diagram.

Copies of the plat and field notes of the individual township public land surveys may be obtained from this office in accordance with the provisions of the enclosed circular.

Very respectfully,

Antoinette Funk
Assistant Commissioner.

OFFICE OF
COUNTY JUDGE NEMAHA COUNTY
AUBURN, NEBRASKA

Nov. 13, 1935.

Historical Society, of Nebraska;
Lincoln, Neb.

Attention of D.R. Burleigh;

Dear Sir:

As requested I enclose Biography to be used
in connection with History of Half Breed Tact;

You are at liberty to condense the same in any manner which may seem
necessary;

Respectfully.

C. O. Snow

*If too late file with Ephraim
in History*