

Shawnee

Department of the Interior
Office of Indian Affairs
August 11th
Washington July 1, 1857

Gentlemen,

I have examined the Memorial
received from you ~~some days since~~ with the
accompanying proofs, filed in behalf of Alexander
Rowles, who claims to be, returned Aborigine of
the Shawnee tribe in Kansas and to be entitled
to participate in the benefits of the 2^d Article
of the Shawnee Treaty of May 10th 1854, whereby
it is provided, among other things, that the residue
of the Shawnee lands shall be set apart in one
body in compact form under the direction of the
President of the United States, and that such absent
Shawnees, as returned to, and united with, the tribe
within five years from the proclamation of the treaty
shall be entitled to the same quantity of land
secured to the resident members of the Tribe out of
said surplus, &c.

The Affidants of the Memorialist and
of his half brother Matthew King accompany the
memorial from which it appears, that the mother
of the said Alexander Rowles, a full blood ^{woman and} Shawnee,
left her tribe many years since, when they resided
in Ohio, having married a Scotchman and gone
with him to live in the British Province of Canada
West, where she resided at the date of the birth

2

of the Memorialist, although he has been told
by her and believing that he was born while his
mother was upon a temporary visit in the State
of Michigan

The residence and domicile of
the Memorialist appear always to have been
in Canada where his family still reside,
although he has presented himself to the
Shawnee in Kansas, and claimed of the
Council admissions to membership, as returned
Shawnee under the Treaty referred to, which
claims the Council have disallowed.

Matthew King, the half brother has always
remained with the tribe and shared in the
general provisions of the Treaty. His statements
made upon information and belief corroborate
the affidavit of Ironsides.

Upon these facts you make two
points 1st That the Shawnee Council has
no authority in the premises, and that the
Government alone must decide to admit or
reject such claims upon proof.

And 2^d That the place of the Memorialist's
birth is of no importance, he having ~~to~~ a vested
right secured to him under the Treaty -

Upon this first point, ^{*} I am of the opinion

* the question might be asked, "if Ironsides really believed the Shawnee Council had no authority in the premises, why did he submit his claim to them?" but as the case can be disposed of on other questions, ~~of law and fact~~ it is not necessary to discuss ~~this further~~ this.

The United States must ever be responsible for the proper disposition of the trust estate, and admit or reject only proper applications; ~~to do this properly, the right to~~

* Dr. Ironsides thought proper to present his claim to the Council of the Tribe first, and having been rejected, he now applies to the government to be admitted to ^{a participation of} the benefits ~~of the~~ secured to the individuals of the Tribe under the 2^d article of the Treaty of May 10th 1854. Although this proceeding might be considered somewhat irregular, yet I am not disposed to object to it on that account, but to receive it as the decision of the Council, rendered with a full knowledge of all the facts, as it is not pretended that they were not fully advised on the subject. It is not, therefore, necessary ~~again to~~ to refer the matter again to the Shawnee Council.

Upon the first point, ^{*}I am of the opinion that the residue of land to be set apart by the President for the benefit of returning Absentees, as before stated, is held by the United States in Trust for the purposes specified during the period of ~~five~~ five years from the proclamation of the treaty, after which so much as remains will fall into the general fund of the Tribe.

The United States must therefore be responsible for the proper disposition of the trust estate, and admit or reject only proper applications; ~~to do this properly~~ The right to examine the proofs and to determine their sufficiency is therefore entitled to be retained by the Government, during the five years, to which the Trust is limited, and cannot be considered as at all belonging to the Shavonee Council.

The duty of the Government is to receive an application with proofs, and if deemed necessary to refer the same to the Shavonee Council for their objection, if any, and thereafter to decide finally between the tribe and the applicant, as the right of the case may appear. *

Upon the second proposition that the place of the Memorialist's birth is a matter of indifference in connection with the claim now preferred, I have to state, that in my opinion the treaty must be construed and understood in connection with the laws of the land in existence at the time of ~~the~~ its ~~adoption~~ execution, and that where the provisions of the same are not clearly intended to change such laws, the two should stand together.

The Memorialist and his father, (if living, and British subject, and cannot ~~take on~~ hold real Estate in this Country, ^{after "Office found"} except by virtue of some special Act of the Legislature of the Territorial or State Government - Congress has enacted ^{in his behalf} no such law, ^{there} nor is any such in force in the Territory of Kansas where the lands lie; it is therefore considered that ~~it is~~ ^{it is} ~~inasmuch~~ as this legal objection is not overcome by the express language of the Treaty, it must be held that the class of persons to which the memorialist belongs ^{was} ~~was~~ not intended to be included in the beneficial provisions of the treaty referred to, and that for that reason his application should be rejected.

A further reason for refusing to ^{grant} ~~grant~~

the Memorialist among the members of the
Tribe is found in the fact that he is
in no sense a returned Absentee.

From his own statement it appears
that he has no title to claim to have
ever been one of the tribe, but from an
Early day, if not from birth to have
adopted habits of Civilization in a foreign
land and to have pursued a liberal profession
^{namely} ~~the~~ the Medical - for a business. If he
never belonged to the tribe in any manner
except to possess a portion of its blood in ^{his} ~~of~~
veins, how can ~~he~~ he be properly said to have
returned to it? He has simply presented
himself to claim certain benefits under the
Treaty in question, which if obtained, he may
if he chooses, immediately return to his
Canadian home and dispose of his lands
at his leisure -! A condition of things
which the parties to the treaty certainly never
intended.

For this reason also I feel bound to
deny the application of Heuride.

Very respectfully
Yrs. Obedient Servant
J. H. Deane
Commissioner

Wm. Leonard Young
Attorney at Law