

Brothertown Reserve Wis, Ter.

July 2nd 1839

To His Excellency Martin Van Buren

President of the United States.

Sir:

I have the honor herewith to transmit a copy of the proceedings of a meeting held pursuant to the Act of Congress approval March 3rd 1839 for the use of the Brothertown Indians in the Territory of Wisconsin accompanied by a certificate of Election of Alonzo Dick, Charles ^{Anthony} Abner Sr., Randal Abner Sr., David Jonson, Thomas Cummack, head men of said tribe as a Board of Commissioners under the 2nd Section of the aforesaid Act of Congress, who have this day been organized as such.

I have the honor to be

Sir, your Obl. humble Servt.

John S. Horner

Register of the Green Bay Land
office and Presiding officer of
the meeting of the Brothertown Inds.

Brothertown Church

Brothertown Reserve Wisconsin Territory

July 2nd 1839

I, John S. Horner, Register of the Green Bay Land Office and presiding officer of the meeting of the Brothertown Indians, convened at their Church in pursuance and under the privileges of the act of Congress approved March 3rd, 1839, do hereby certify that at the aforesaid meeting, at the time and place aforesaid at an election by Ballot held for their Commissioners under the provisions of the 2nd and 3rd Sections of the aforesaid Act of Congress, the following principal or head men of the aforesaid Tribe of Indians were duly elected by a majority of the whole number of the voters of the said Tribe then present. To wit: Alonzo Dick, Thomas Cummuck, Randal Abner Senior, David Jonson, and Charles Anthony, Commissioners, to make a partition and

division of the Township of Land containing Twenty three thousand and forty acres, lying on the East side of Winnebago Lake, in the Territory of Wisconsin, among the members and individuals, or among such of them as by the Laws, Customs, and regulations of Said Tribe, are entitled to a portion of Said Township of Land.

Given under my hand this 2nd day of July 1839, at Brothertown Reserve Wisconsin Territory .

John S. Horner.

Register of the Green Bay Land Office
and Presiding officer of the aforesaid
Meeting of the Brothertown Indians.

G. W. Feathersonhaugh, Secretary
of the Meeting.

To His Excellency

Martin Van Buren

President of the United States.

Sir:

We the undersigned beg leave most respectfully to report that having at an election held in this Town on the 1st July last been declared by the Presiding officer to be duly elected Commissioner for the purpose of dividing and apportioning the Township of land Occupied by the Brothertown Nation of Indians to be held in Fee simple by them pursuant to an act of Congress approved March 3rd 1839. We proceeded forthwith to discharge the duties devolved upon us and to carry into effect the provisions of the Law by which we were empowered to Act on behalf of our Brothertown, and to become in some measure the Dispensers of the munificence of the National Legislature.

For the most part these duties have been of a plain and simple nature and admitting but one principle in their execution, but in some instances they have been found sufficiently complex and embarrassing.

In all cases however we trust that a proper degree of discretion and care will be found to characterize our proceedings,

and that our decisions in all difficult cases have been based upon the natural justice and equity of the premises when our action was not restricted by the direct Text of the Act itself.

One of the most important principles, we were called upon to decide is the one involving the right of an individual about to become a citizen of the U. States to inherit the Title and possession of land from a deceased parent or ancestor, who held it merely by the Indian tenure, numerous claims by virtue of this heirship were presented urging that the claimant in addition to whatever share might be awarded to him in common with the other participants of the land divided was entitled to certain quantities of land as heir at Law to deceased relatives. The other circumstances of this class of claims are briefly these, when a member of the Brothertown Tribe of Indians has attained the age of Twenty one years, or being already of that age, presents himself at the reservation we occupy in Wisconsin Territory and makes choice of an unoccupied tract of one hundred acres, it is forthwith assigned to him by the vote of the Nation. Should he die seized of this tract it descends to the next heir or heirs, although they may already occupy and possess similar tracts; a portion however is reserved by proper persons for the maintenance of his widow should he leave one, the custom of bequeathing land not being known among us.

In these cases as in some others the language of the act of Congress furnishes no guide for our direction beyond the broad injunction to adhere to equity, justice and the usage of our Tribe.

In point of Equity this additional quantity of Land was for the most part reclaimed from the wilderness and cultivated at much labour and expense by the ancestors of the claimants, and it would appear just that they if any one should benefitted by their industry and enterprise for although there is no relation subsisting among us precisely analogous to that of heirs at law, Still it is an immemorial custom for the children to receive the

property of the deceased parent, whether consisting in Stock, Crops or the Sole right of Occupying the Patrimonial Farm.

On the other hand we could settle in our minds how far this custom of our people might conflict with the division contemplated in the Act, under the construction of Equity and Justice implying an equal share to each and all, for an adherence to this custom would certainly occasion a disparity in the size and value of many of the individual shares and the small quantity of land falling to the majority of individuals being only sixty acres apace would be still further diminished by recognizing this inheritancy, which would extend in some cases to both minors and absentees. Neither were we satisfied that even the acknowledged right of an heir merely to possess and occupy any number of acres during his life time because they were possessed by his ancestor could entitle him under a new State of things to hold them however numerous in fee simple which would invest him with a permanent and disposable right and title, whereas the former, which was only a privilege or sufferance, was liable to cease at any moment, by the intervention of a Treaty between the Tribe and the U. S. States Government.

Occasionally it was necessary to trace the claim back through a whole line of descent and owing to the great want of authentic Genealogical records among us the utmost care would not enable us to do justice through our ^{customs} and cases not merely hypothetical might be instances, where ten of the usual shares would center in one individual. In other cases the very minuteness of these hereditary portions of Land would prove no less considerable a source of practical difficulty to all parties. Many minors besides their quota of sixty acres would receive a co-heirs of parties deceased fractions of an acre and these located miles apart, the inconvenience of attending to property thus scattered about the Township, would ^{deter} any person from acting as guardian to these minors and such insulated fragments profitable cultivation being out of the question, would soon be merged into the next

contiguous Farm without bringing their possessor adequate compensation.

Any confirmation of this species of claims would be dangerous in another point of view, as it would doubtfully encourage many of our Tribe under bad council hereafter to contest under some pretext or other the rights of their neighbours however stable, and even patented and guaranteed to them by the Government itself. We have therefore rejected this species of claims in Lots as not sanctional by the Act of Congress, as practically dangerous and embarrassing and above all production of great and unmerited inequality in individual prospects of the Future and feel ourselves compelled to adopt the principle of assigning to each person entitled an equal share of the soil, both with regard to its extent and excellence.

In the list of claimants annexed to the report it will be seen that in number all females have been entirely rejected. These individuals had for the most part abandoned the Tribe years ago, by intermarrying with Strangers, generally Indians, although in some instances white men in the vicinity.

The prevalent usage throughout all Indian Races, especially the few that are completely civilized establishes that a wife in all cases follows the condition of the husband and where our men choose a partner for life from a foreign Tribe, she is introduced among the people of her husband, and is considered ever after or until she voluntary abandons it, as a member of the Tribe to all intents and purposes, on the other should they marry among strangers our women are similarly provided for by them, and thus the wife adopts the Nation of her husband and is in return adopted by it. A woman therefore choosing to abide by the fortunes of a new race naturally abandons and looses the protection of her own, and by this change of her nationality divests herself of her former privileges which were her birth right.

One of the privileges or benefits we would advert to is a small annuity derived from the funded property the Brothertown Tribe in the state of New York. No application for this annuity is ever made by a woman who has left the Tribe, but it is peacefully relinquished and increases the general fund or it is received perhaps by the object of ^Msome new adoption. This having been the practice for generations, and acquiesced in and esteemed a Sacred observance, it was with no small surprise that we recognize in many of this class of claimants the very individuals who had separated themselves from our people at various periods, and after being dead in eye of authority for many years past now reappear and assuming the character of Brothertown Indians demand a share of the land about to be divided while their children who would be principally benefitted by it are either Oneidas, Stockbridges or even white persons in the vicinity.

Apart from the absurdity of thus furbishing up an old abandoned claim precluded by as positive a Law as a Nation in our hereunto most unfortunate and peculiar situation could enact ^{act} it is as preposterous for the same individuals to pretend to ^{be} a Stockbridge and a Brothertown Indian at the same moment of time, as it would be ^{for} a subject of Great Britain to claim from some peculiarity in his history or parentage, the right of suffrage and of holding offices of Trust and profit as a citizen of the United States, while his allegiance ^{to} to the Crown was still ~~un~~-absolute and paramount to any other obligation.

Under these considerations we have thought that our duty was sufficiently obvious, and have rejected all female claimants who had by their voluntary act, exchanged their Friends and kindred for a strange or inimical race. This duty was rendered the less painful from the fact that these claimants were well provided for, and that no degree of want or destitution would follow their rejection.

In the actual distribution or apportionment of the land in our capacity as commissioners, each individual whether male or female being of age and residing upon the Reservation was

allowed to select fifty acres of land invariably of a good quality and lying in a body, married persons were allowed to select contiguous portions, and all children, persons under age and those even of age, but not resident and actual settlers in Wisconsin Territory were assigned fifty acres of land which were drawn to their names by disinterested persons by the usual method of drawing Ballots in scheme of chance or lottery.

With respect to the remainder of each share, viz: Few acres, an adequate number of lots containing fifty acres were divided unto five equal parts and these fractions falling to the members of each family were so chosen as to form a single body by which arrangement their value has been greatly enhanced and the whole rendered more available from the proximity of its parts.

All improvements whether buildings or cultivation have been preserved and secured to the original and legal possessor and fortunately owing to a partial survey of the Reserve ^{been} having/made some years ago very little difficulty has occurred in effecting this end.

A Mill which was built a few years ago at the expense of the Nation together with all its water privileges property and appurtenances as secured and released to the nation at former periods by instruments in the possession of our ^{offices} ~~authorities~~ has been assigned to a member of our Tribe (elected at town meeting) held for that purpose) in Trust for the Nation who are the proprietors. Ample security has been required and given for the restoration of the property in question when demanded by proper persons on behalf of the Brothertown nation after they shall have become citizens of the United States.

In conclusion we beg leave to State to your excellency that the execution of the Survey of the Township and the transaction of the various business, attending its division having become imperative upon us as soon as we were declared to be duly elected by the U. S. Officer presiding at the election, and no provision to

meet the expense having been made to our knowledge by government we have been obliged during the months of July, August and September the most important ones to the farmer to neglect without recompense our agriculture duties which are our only means of existence, indeed one of our number has been constantly in the field superintending the execution of the Surveys. The principle survey-or engaged by us has also upon our representations been induced to trust to the consideration of government for his remuneration under these circumstances we feel assured that your Excellency will authorize the proper officer to settle the small demand we make, which is as follows: For pay to the commissioners nine hundred and sixty dollars, for legal council procured by us, and services of a justice of peace, ^{two}~~ten~~ hundred and twenty five dollars and for the salary of a Surveyor five hundred dollars.

Should any fractional portions of Lots be found omitted in the assignments we request that they may be patented to Alonzo D. Dick for the benefit of the members of the Brothertown Tribe in the following form.

"To Alonzo D. Dick in Trust for the use and benefit of the Individuals that constitute the Brothertown Tribe of Indians all and each such portions of lots of Land situated in Brothertown Township as may have been omitted to be assigned to any one in the report of the Commissioners elected July 1st, 1839.

All of which is most respectfully submitted,

Charles Anthony

Alonzo D. Dick

Randal Abner Sr.

Thomas Commuck

David Johnson

Manchester April 2nd 1845

Sir:

The commissioners elected pursuant to an Act of Congress approval March 3rd 1839 for the purpose of dividing the land of the Brothertown Indians amongst those who were justly entitled to the same Respectfully beg leave to offer the following as their amendatory report in answer to a communication from the General Land Office received the 20th day of November 1842 wherein certain information was desired in relation to six cases found in our original Report.

1st. The 60th case in our former Report.

The true name is Mercy Johnson.

2nd. The 214th case your suggestion is this case is correct, the East $\frac{1}{2}$ of lot No. 223 is allotted to Lucinda Brushel instead of 233.

3rd. The 296 case. The West half of lot 122 and fractions 1, 2, 3, 4, 5 of the West half of lot 148 were designed for Benjamin G. Fowler in this case the map in your office is wrong in setting the aforesaid 5 fractions to Thos. Kiness.

4th. The 386 case. The North 24 acres of lot No. 13 is allotted to David Johnson instead of the south 24 acres.

5th. The 387th case. In this case the East 14 acres of the South half of Lot No. 20 is allotted to John C. Hammer and the West fraction of Lots No. 11 & 12 are designed for Abigail Johnson wife of David Johnson.

6th. The 388th case, in this case the South 36 acres of Lot No. 13 to extend through the fraction on the West end of Said lot to the Lake was intended for John C. Hammer.

7th. 390th case, in this case we acquiesce with you and desire the Patent to be issued to Catherine Dick with the exception suggested by you in your letter to us.

We acknowledge the reception of 4 Brothertown Indian patents accompanying your communication of October 22nd, 1844.

In conclusion will inform you that herewith we return one patent in the name of John Kiness, there is no such person belonging to the Brothertown Nation, we would respectfully request you to change the name in the patent to that of John Coyhis Sr. and return it with the others due from your office at your earliest possible convenience. All of which is respectfully submitted.

Thomas Commuck

David Johnson

Charles Anthony

Randal Abner

A. D. Dick

Commissioners

To the Hon.

Thos. H. Black

Com. Gen. Land Office.

Washington,

D. C.