

From Abelard Guthrie to James Henry Lane

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Private

Quindaro Kansas,  
21st Nov. 1864.

Hon. Jas. H. Lane, U.S.S.

My dear Sir,

When I saw you at the Fort yesterday you told me to write to you on the business I had in hand and that you would read my letters carefully. I had only time to explain the case of the Senecas and I need only allude to it briefly now.

A requisition in favor of the Senecas for six thousand seven hundred and odd dollars was sent by the Commissioner of Indian Affairs on the 29th September, to Superintendent Coffin, with instructions to have it paid to the tribe, but Coffin retained the money and wrote back requesting Mr[.] Dole to alter the instructions so as to enable him to use the money for other purposes with the view doubtless of keeping it himself. I wish you would have Dole order Coffin to pay the money to the Senecas at once. I belongs to them and Congress made other appropriations for the support of refugee Indians.

In regard to the Shawnees--I laid before Comdr. Dole a letter from [Paschal Fish?] as first chief and others as counsellors of the Shawnee tribe of Indians, asking to be recognized in their official capacity; and also properly authenticated extracts from the decision of the Supreme Court of Kansas which virtually sustains the claims of [Fish?] and his counsellors. The decision is on the right of the state to tax the lands assigned and patented to Shawnees in severalty. The pleadings in the case were so defective that the Supreme Court sent them back to the district court for correction, but went on and assumed as facts certain allegations in the petition in order to have the case properly presented.

First, the court assumes that these lands lie in a compact form, whereas we all know they do not, but are scattered over the three counties of Douglass, Johnson and

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Wyandot and are interspersed among the white settlers. Second, that they are a part of the "Indian country" under the law of 1854, whereas not one of the provisions of that law applies to them, as, for instance, that law makes it a crime for any white man to buy lands in the Indian country attaching severe penalties to the offence, but we all know that white people are, and have been for years, buying these lands both with and without the consent of the government. And, third, that they are owned and occupied by an Indian tribe, while the "Rules and Regulations" prescribed by the commissioner of Indian Affairs and approved by the Secretary of the Interior, for the sales of these lands, expressly state that they are "not within any tribal reservation." And the decision goes on to say that the lands carry with them the occupants.

Thus the whole drift of the decision is against the presumption that those Shawnees who received lands in severalty are now members of the tribe except as thereafter adopted by it. The Supreme Court in this decision mentions, among other modes in which the tribal relation may be destroyed, that of absorption by white communities of population which is precisely the situation of these people as you know yourself. They are therefore not Indians in the legal sense of the term. They had doubtless a tribal relationship for specific purposes, until their patents were issued and until the payment of the last installment mentioned in the treaty of 1854, but then having separated from the tribe their connection with it ceased. Their longer continuance in the tribal relation would be no disregard of the Osages of the government, judicial decisions and [common?] justice; and if successful in

exempting them from taxation,

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would only have the effect of putting a six thousand dollar fee into the pockets of Wilson Shannon and of depriving the counties of Douglass, Johnson, and Wyandot of about sixty thousand dollars of taxes which they sorely need, besides depriving [*text stricken through*] the legitimate authorities of the tribe of the exercise of their rightful functions.

I have thus stated the case in as few words as possible, but if what I have said is not satisfactory, I wish you to examine the papers, including the decision of the Supreme Court, in the case now before the Court of Indian Affairs. And as Mr[.] Dole mentioned you as an obstacle in the way of the recognition of [Fish?] and his council, I trust you will see that justice is done our friends by the issuance of instructions to Agent Abbott to recognize and do business with [Fish?] and his counsellors as the legitimate Shawnee council. And I have no doubt that when you have considered all the facts you will come to the same conclusions as myself, and I shall be [MS. illegible] grateful to you for your [MS. illegible] and [MS. illegible] consideration of this business and my wishes in regard to it. Let me hear from you very soon.

Respectfully and truly  
Your friend  
Abelard Guthrie