

of the Interior, as other public lands are surveyed, as soon as the consent of said Indians is obtained, as above provided, the expense of said survey to be paid from proceeds of sale of said land."

But, as already shown, this Act was amended by the subsequent Act of May 9th, 1872, which provides as follows:

"That the twelfth section of said Act of July sixteenth (15th), 1870, is hereby so amended that the aggregate amount of the proceeds of sale received prior to the first day of March of each year shall be the amount upon which the payment of interest shall be based."

The treaty and the Acts of Congress, relative thereto, must be construed as one act.

And where there is a conflict or contradiction between them, the last act must prevail.

This I submit for the careful consideration of the Department, and such action as may be deemed just and equitable.

But, referring to the "ceded lands," the treaty, upon its face, is manifestly unjust, and shows without reference to the subsequent Acts of Congress, that it could not have been, from the very nature of things, understood by the Indians who signed it.

It says—

"Having more lands than are necessary for their occupation, and all payments from the Government to them under former treaties, having ceased, leaving them greatly impoverished, and being desirous of improving their condition by disposing of their surplus lands, do hereby grant and sell to the U. S. the lands contained in the following boundaries," &c.

Now, if they were greatly impoverished and forced to sell a part of their lands, is it reasonable to presume that they would knowingly and willingly consent to give two-thirds, or any other amount of the proceeds of the lands