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Land for Shawnee Indians. Letter from the Secretary of the Interior, in relation to certain selections of land made for members of the Shawnee Indians, also a draft of a joint resolution to confirm the sale of said selections

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LAND FOR SHAWNEE INDIANS.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

IN RELATION TO

Certain selections of land made for members of the Shawnee Indians, also a draft of a joint resolution to confirm the sale of said selections.

JANUARY 6, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., January 11, 1872.

SIR: I have the honor to transmit herewith a copy of a report dated the 9th instant, from the Commissioner of Indian Affairs, in relation to certain selections of land made for members of the Shawnee tribe of Indians, together with the accompanying draught of a joint resolution to confirm the sale of said selections under the direction of the Secretary of the Interior.

The report of the Commissioner referred to contains a very full statement in relation to the subject, to which the attention of Congress is respectfully invited.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

HON. JAMES G. BLAINE,
Speaker House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 3, 1872.

SIR: I have the honor to invite your attention to the following, viz :

By the first article of the treaty concluded with the Shawnee tribe of Indians May 10, 1854, (Stats. at Large, vol. 10, p. 1053,) said tribe of Indians ceded to the United States their reservation in the State of Kansas, estimated to contain sixteen hundred thousand acres. By the amended second article of said treaty the United States re-ceded to the Shawnee tribe of Indians, out of said reservation, "two hundred thousand acres of land between the Missouri State line and a line parallel thereto, thirty miles

west of the same." The same article provides that "all Shawnees residing east of said parallel line shall be entitled, out of said two hundred thousand acres, to select, if a single person, two hundred acres of land, and if the head of a family, a quantity equal to two hundred acres for each member of his or her family." It is further provided in the same article that "in the settlement known as Black Bob's settlement, whereon he resides, and in that known as Long Tail's settlement, whereon he resides, there are a number of Shawnees who desire to hold their lands in common, and all who, within sixty days after the approval of the surveys provided for, signify their election to join either of said communities and reside with them shall have a quantity of land assigned and set off to them in a compact body equal to two hundred acres for every individual in each of said communities," and that "after all the Shawnees and other persons herein provided for shall have received their shares of the two hundred thousand acres of land reserved, it is anticipated there will still be a residue; and as there are some Shawnees who have been for years separated from the tribe, it is agreed that whatever surplus remains, after provision is made for all present members of the tribe, shall be set apart in one body of land, in compact form, under the direction of the President of the United States; and all such Shawnees as return to and unite with the tribe within five years from the proclamation of this instrument shall be entitled to the same quantity of lands out of said surplus, and in the same manner and subject to the same limitations and provisions as are hereinbefore made for those now members of the said tribe; and whatever portion of said surplus remains unassigned after the expiration of said five years shall be sold as hereinafter provided," &c. By the eleventh section of the act approved March 3, 1859, it was provided "that in all cases where, by the terms of any Indian treaty in Kansas Territory, said Indians are entitled to separate selections of land, and to a patent therefor, under guards, restrictions, or conditions for their benefit, the Secretary of the Interior is hereby authorized to cause patents therefor to issue to such Indian or Indians, and their heirs, upon such conditions and limitations and under such guards or restrictions as may be prescribed by said Secretary."

Subsequent to the act of March 3, 1859, and as was assumed in pursuance of the provisions of the said eleventh section thereof, the Department proceeded to receive the individual selections of members of the Shawnee tribe, and to issue patents thereupon.

In making such selections, however, duplicate selections were, in several instances, made through inadvertence, and patents issued thereupon. In the preparation of the revised rules and regulations for the disposition by the individual Indians of their several selections, approved by the Secretary of the Interior July 23, 1869, it was deemed proper, for the best interests of the tribe, that these duplicate selections should be disposed of; and it was therefore provided, by the fifth clause thereof, that "in cases for allotments for which no owner or heirs thereof survives, or allotments to which the allottee was not entitled, the chiefs may convey the same by deed, but the purchase-money thereof must be paid into the hands of the agent, and held by him subject to the direction of the Secretary of the Interior, to be applied for the benefit of the tribe; and such conveyances must be certified by the agent, and submitted, through the office of Indian Affairs, to the Secretary of the Interior for approval."

In pursuance of such authority, and in conformity with said rules and regulations, the duplicate selections referred to have been sold from

time to time by the chiefs of the tribe, and the deeds approved by the Hon. Secretary of the Interior.

The validity of the titles thus conferred upon purchasers has, however, been questioned, and a test case brought before the supreme court of the State of Kansas; the particular tract in litigation being claimed by purchase under a joint resolution of Congress entitled "A resolution for the relief of settlers upon the absentee Shawnee lands in Kansas" approved April 7, 1869; (Stats. at Large, vol. 16, p. 53.) In this case the court decides that lands allotted in severalty and afterward abandoned for other lands do not become part of the surplus lands which were set apart for the absentee Shawnees; that the chiefs of the Shawnee tribe have no authority, even with the consent and approval of the Secretary of the Interior, to dispose of said lands and make deeds therefor, and that a deed so made confers no title.

In view of the foregoing, and of the fact that the parties purchasing said lands have made such purchase in good faith, acting in accordance with rules prescribed by the Department, and paid adequate consideration for the same, I have caused to be prepared a draught of a joint resolution for the purpose of confirming these sales, which I respectfully recommend be submitted to Congress, and the attention of that body invited to the propriety of early action in the matter, in order that these *bona fide* purchasers may be spared tedious and expensive litigation, have their title perfected, and be secured in the possession of their home.

Very respectfully, your obedient servant,

F. A. WALKER, *Commissioner.*

THE HON. SECRETARY OF THE INTERIOR.

JOINT RESOLUTION to confirm sales of Shawnee Indian land in Kansas, under the direction and with the approval of the Secretary of the Interior.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sale of the southwest quarter of the northwest quarter and the southwest quarter of section numbered eight, in township numbered thirteen, of range numbered twenty-two, containing two hundred acres; the south half of the southwest quarter of section numbered five; the east half of the northwest quarter, and the northwest quarter of the northwest quarter of section numbered eight, in township thirteen, of range numbered twenty-two, containing two hundred acres, to Charles Stiles Wilder; the east half of the southeast quarter of section numbered twenty-nine, in township numbered twelve, of range numbered twenty-three, containing eighty acres, to Z. N. Jackson; the east half of the northeast quarter, and the southwest quarter of northeast quarter, of section numbered twenty-nine, in township numbered twelve, of range numbered twenty-three, containing one hundred and twenty acres, to Daniel S. McDougal; and the northeast quarter of the southeast quarter and the northeast quarter of section nineteen, township numbered thirteen, of range numbered twenty-five, two hundred acres, to S. A. Shepherd; which sales have been made under the direction and with the approval of the Secretary of the Interior, be, and the same are hereby, confirmed to said purchasers above named, their heirs and assigns.