

1-16-1872

Kaw Indians. Letter from the Secretary of the Interior, in relation to the present condition of the Kaw Indians

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>

 Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Exec. No. 67, 42nd Cong., 2nd Sess. (1872)

This House Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

KAW INDIANS.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

IN RELATION TO

The present condition of the Kaw Indians.

JANUARY 16, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., January 15, 1872.

SIR: I have the honor to transmit herewith a copy of a communication, dated the 3d instant, from the Commissioner of Indian Affairs, and accompanying letters from Enoch Hoag, superintendent of Indian affairs central superintendency, and Mahlon Stubbs, agent for the Kaw or Kansas Indians; also Senate bill 346, "for the appraisement and sale of the Kansas Indian lands in the State of Kansas, and for other purposes."

The papers referred to represent that the present condition of these Indians is such that, unless special provision be made to subsist them through the winter, they will be exposed to suffering and starvation.

In view of the fact that there are no funds at the disposal of this Department that can be expended for the relief of this tribe, the Commissioner suggests that the sum of \$10,000 be appropriated for their immediate wants, and the further sum of \$50,000, or so much thereof as may be necessary, to defray the expense incident to their removal to and settlement upon such locality in the Indian Territory as may hereafter be selected, the amount thus appropriated to be reimbursed from the proceeds of the sale of their lands in Kansas.

I have considered the provisions of the bill referred to, and have indicated therein the amendments which I think it should receive.

The attention of Congress is respectfully invited to the subject.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

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

KAW INDIANS.

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

SIR: Referring to the treaty between the United States and the Kansas tribe of Indians of October 5, 1859, (12 Stat., pp. 1111 and 1116,) and to a bill (S. 346, herewith) to enable the Secretary of the Interior to carry out the provisions of said treaty, entitled "A bill for the appraisement and sale of the Kansas Indian lands, and for other purposes," introduced in the Senate December 11, 1871, by Hon. S. C. Pomeroy, and referred to the Committee on Indian Affairs, I now have the honor to invite your attention to the inclosed copies of letters from Superintendent Hoag and Agent Stubbs, of the 15th and 23d December last, representing that the present condition of the Kaw or Kansas Indians is such that, unless special provision be made to subsist them through the winter, they will be exposed to suffering and starvation.

As there are no funds at the disposal of the Department that can be used for the relief of these Indians, their small annuity of \$10,000 for the present fiscal year under the provisions of the 2d article treaty of January 14, 1846, (9 Stat., p. 842,) having been exhausted, I respectfully recommend that the proper congressional committee be requested to amend Senate bill No. 346, herein referred to, by adding a section appropriating the sum of \$10,000, for the immediate wants of the Kaw Indians, and the further sum of \$50,000, or so much thereof as may be necessary, to defray the expenses of their removal and settlement upon such land in the Indian Territory as may hereafter be selected, the amounts thus appropriated to be reimbursed from the proceeds of the sale of their lands in Kansas.

Very respectfully, your obedient servant,

F. A. WALKER,
Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

OFFICE OF INDIAN AFFAIRS,
CENTRAL SUPERINTENDENCY,
Lawrence, Kansas, Twelfthmonth 23, 1871.

Herewith I transmit letter from Agent Stubbs—15th instant—informing that the Kaw Indians will require special aid to relieve their present suffering and to subsist them through the winter. He recommends the appropriation of \$10,000 for their relief, said amount to be reimbursed from the proceeds of sales of their lands when sold. These Indians desire to engage in industrial and productive pursuits, and would at an early day be self-supporting, if on permanent homes. This long-continued status of migration entails increased poverty, which is not chargeable to them. The amount called for will be required, and it has the approval of this office.

Respectfully,

ENOCH HOAG,
Superintendent.

Hon. F. A. WALKER,
Commissioner Indian Affairs.

KAW INDIAN AGENCY,
Council Grove, Kansas, Twelfthmonth 15, 1871.

I desire to call the attention of the Indian Department to the condition of the Kaw Indians.

About two-thirds of the tribe left here the fore part of last month for their usual winter's hunt. On arriving at their old hunting-grounds they found no buffalo, while the grass had either been burned or eaten off by the Texas cattle. In a very few days it commenced sleeting, and covered what vegetation there was with ice; then turned so extremely cold that a number of their horses perished. Their provision gave out, and compelled them to sell part of the rest of their ponies for nearly nothing—ranging in price from \$2 to \$11. Ten lodges have returned home; the balance are scattered through the western part of the State, and no doubt many of them in a suffering condition, and are liable to get into trouble with the whites or other Indians. I expect to start in the morning to look after them, and have them to return home, but do not know what they are to subsist upon after their return.

It looks hard that they should suffer, when their property, after paying all their indebtedness, is worth at least half a million dollars. In view of their present condition, I would earnestly recommend that an appropriation of \$10,000 be asked for their subsistence the present winter, and that it be refunded when their lands here are disposed of. They had better pay a reasonable interest on said loan or appropriation than to suffer, as many of them will.

Respectfully,

MAHLON STUBBS,
United States Indian Agent.

ENOCH HOAG,
Superintendent Indian Affairs.

S. 346. [S. Mis. Doc. 10.]

FORTY-SECOND CONGRESS, SECOND SESSION.

[Amendments suggested by the Secretary of the Interior: Strike out parts printed in brackets, and insert parts printed in italics.]

A BILL for the appraisement and sale of the Kansas Indian lands in the State of Kansas, and for other purposes.

Whereas, by the treaty between the United States and the Kansas tribe of Indians, concluded October fifth, eighteen hundred and fifty-nine, and proclaimed November seventeenth, eighteen hundred and sixty, it was agreed to abolish the tenure in common, by which said Indians held their lands, to assign limited quantities thereof, in severalty, to the members of said tribe, and to sell the lands remaining after said assignments: Now, therefore, in order to enable the Secretary of the Interior to carry out the provisions of said treaty most advantageously to the Indians,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and empowered to cause an appraisement to be made of said lands, and the improvements thereon made by the Indians or the United States only, by three disinterested persons, to be appointed by him; said appraisement to be returned, under oath, to the Commissioner of Indian Affairs: Provided, That in

making said appraisement, the value of said improvements shall be stated separately from the value of the land upon which they are located: *And provided further*, That the Secretary of the Interior may, in his discretion, set aside any appraisements that may be made under the provisions of this section, and cause a new appraisement to be made.

SEC. 2. That each bona fide settler at the time occupying any portion of said lands and having made valuable improvements thereon, or the heirs-at-law of such, who is a citizen of the United States, or who has declared his intention to become such, shall be entitled, at any time within one year from the return of said appraisement, to purchase the land so occupied and improved by him, not to exceed one hundred and sixty acres in each case, at the appraised value thereof, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That such appraisement of the lands so occupied by bona fide settlers, as aforesaid, shall not include the value of any improvements made by such settlers subsequent to the date of their original settlement thereon.

SEC. 3. That all the lands mentioned in the first section of this act, now occupied by bona-fide settlers as mentioned in the second section of this act, remaining unsold at the expiration of one year from the return of said appraisement, shall be sold at public sale, after due advertisement, to the highest bidder for cash, in tracts not exceeding one hundred and sixty acres; and all the lands mentioned in the first section of this act which [shall be] *were* unoccupied by bona fide settlers [at the date of such appraisement] *on the first day of January, eighteen hundred and seventy-two*, may be sold at any time after the return of said appraisement, at public sale, after due advertisement, to the highest bidder for cash, in tracts not exceeding one hundred and sixty acres, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That in no case shall any of the lands mentioned in this act be sold at less than their appraised value: *And provided further*, That the Secretary of the Interior may, in his discretion, open said lands to cash entry at their appraised value, subject to the rights of bona fide settlers, as provided for in this act: *Provided, however*, That the proceeds of the sale of said lands and improvements shall be applied in accordance with the provisions of said treaty: *And provided further*, That if any member or members of said tribe who have heretofore received their lands in severalty shall neglect or refuse to become citizens of the United States, and shall desire to remove to the Indian Territory, as hereinafter provided for, the Secretary of the Interior is hereby authorized to sell the lands of such person or persons, under such regulations as he may prescribe, for the sole benefit of the person or persons to whom such lands were allotted.

SEC. 4. That the privileges and benefits of the naturalization laws of the United States be, and the same are hereby, extended to all Indians residing within the jurisdiction of the United States, and any Indian who shall take an oath of allegiance to the United States, and renounce all superior allegiance to his tribe or band, and shall prove by two competent witnesses, to the satisfaction of any district or circuit court of the United States, that he is sufficiently intelligent and prudent to manage his own affairs, that he has for the period of two years been able to maintain himself and family, and that he has for said period adopted the habits of civilized life, shall be declared by said court to be a citizen of the United States, which declaration shall be entered of record and a certificate thereof given to said party. On the presentation of said cer-

tificate to the Secretary of the Interior, with satisfactory proof of identity, he may, at the request of such person or persons, cause the land severally held by them to be conveyed to them by patent in fee-simple, with power of alienation, or without [it] *the power of alienation* for a period of five years, and may at the same time, at his discretion, cause to be paid to them their proportion of all the moneys and effects of the tribe or band to which they have formerly belonged, held in trust by or made under the provision of any treaty or law of the United States; * or he may withhold his proportion of moneys for five years, with a view to test his competency to manage his affairs. And on such patents being issued and such payments made, such persons shall cease to be members of said tribe or band, and thereafter the lands so patented to them shall be subject to levy, taxation, and sale, in like manner with the property of other citizens. And this provision shall apply to all heads of families, male or female.

SEC. 5. That the Secretary of the Interior be, and he is hereby, authorized and empowered to remove any members of said tribe of Indians who may neglect or refuse to become citizens of the United States, and who may desire to be so removed, to a location in the Indian Territory west of the ninety-sixth meridian west longitude, already selected, or hereafter to be selected and agreed upon, in accordance with the provisions of the treaty between the United States and the Cherokee Nation of Indians, concluded July nineteenth, eighteen hundred and sixty-six, and proclaimed August eleventh, eighteen hundred and sixty-six.

† SEC. 6. That all the provisions of this act not locally inapplicable shall be held to, and hereby are, made applicable to all other tribes or bands of Indians in the State of Kansas, with a view to their early settlement in the Indian country, as aforesaid.

‡ SEC. 7. That in extinguishing the Indian titles, as before provided, there shall be granted to the State of Kansas the sixteenth and thirty-sixth sections of land in each township for the support of public schools, to be administered upon, as other school-lands, by said State.

* I doubt the propriety of this clause.

† I see no good, but great danger of uncertainty of construction, in this section.

‡ This section is clearly unjust.