

12-16-1885

## Petition of Santee Sioux Indians

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

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

---

### Recommended Citation

S. Misc. Doc. No. 14, 49th Cong., 1st Sess. (1885)

This Senate Miscellaneous 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](mailto:darinfox@ou.edu).

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1885.—Referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MANDERSON presented the following petition of certain Santee Sioux Indians, of Knox County, Nebraska, praying the passage of a law securing to them patents to their lands, and for rights of citizenship:

*To the President and Congress of the United States of America :*

We, the undersigned, members of the tribe and bands of Dakota Indians now known as the Santee Sioux, and residing on our homesteads in Knox County, in the State of Nebraska, petitioning for ourselves as individual men and for our families, respectfully represent :

That our people, known in former treaties between themselves and the Government and people of the United States as the Mde-wa-kanton-wan, Wah-pe-ku-te, Sis-si-ton-wan, and Wah-pe-ton-wan bands of Dakota or Sioux Indians, sometime resided in the State of Minnesota, on a reservation confirmed to us by the treaty of 1857.

Through no fault on our part, but because of an outbreak of a portion of our bands, under the leadership of the chief known as Taoyateduta or Little Crow, we were expelled from Minnesota, our property was confiscated, and we were located on lands at and near Crow Creek, in the Territory of Dakota, under the authority of an act of Congress, approved March 3, 1863 (*vide* U. S. Stat. at Large, vol. 12).

This location in Dakota Territory was never confirmed to us, and proving otherwise unsatisfactory and unsuitable for our occupancy, we were removed therefrom without further authority of law, on the recommendation of the Peace Commission of 1865, and were located on lands in Knox County, in Nebraska, in 1866, some of which lands were already the property and possession of citizens of the United States. This was the cause of grave complaint on the part of citizens of the State of Nebraska, and in 1867 we were visited by the Peace Commission, composed of Generals Sherman, Harney, Terry, and others, and urged to select in lieu of our Nebraska location other lands lying in the Territory of Dakota.

We were again visited by the same commission in June, 1868, and our chiefs and headmen were taken by the commission to attend the general council, convened at Fort Rice, Dakota, in the month of July in that year. In that council, as the record shows, our chiefs asked that the reservation, by Executive order, in the State of Nebraska be given them as a home for their people. The commission refused to grant this request, but offered them a much larger and better tract of land in the Territory of Dakota, besides other and valuable considerations in annuities, &c., if they would consent to remove, with the only alternative of accepting lands in the State of Nebraska under the land laws of the United States as provided for her citizens, or under provisions similar to such laws. The words of General Sanborn, the acting president of

the commission, in reply to Wapashaw, the leading chief of the Santee, were these:

The only objection to the Indian having this land (in Nebraska) is, that the whites may lay claim to it, and it will be necessary for the Indians to pre-empt the land like the whites do their land and to own it as you do your horses. (*Vide Com. Record, p. 144.*)

As our chiefs had objected to go to the Dakota reservation, because they desired to wholly abandon their Indian customs and modes of life and become, at once like the white people, they, for the Santee, gladly and eagerly accepted this alternative, and to make these conditions as easy as possible for the Indian, and to give us as speedily as possible the protection of law as citizens of the United States, the last clause of article 6 of the treaty proclaimed February 24, 1869, was drawn up at their request and inserted for our benefit. We here insert it:

And it is further stipulated that any male Indians over eighteen years of age, of any band or tribe that is or shall hereafter become a party to this treaty, who now is or who shall hereafter become a resident or occupant of any reservation or territory not included in the tract of country designated and described in this treaty for the permanent home of the Indians, which is not mineral land, nor reserved by the United States for special purposes other than Indian occupation, and who shall have made improvements thereon of the value of two hundred dollars or more, and continuously occupied the same as a homestead for the term of three years, shall be entitled to receive from the United States a patent for one hundred and sixty acres of land, including his said improvements, the same to be in the form of the legal subdivisions of the surveys of the public lands. Upon application in writing, sustained by the proof of two disinterested witnesses, made to the register of the local land office when the land sought to be entered is within a land district, and when the tract sought to be entered is not in any land district, then upon said application and proof being made to the Commissioner of the General Land Office, and the right of such Indian or Indians to enter such tract or tracts of land shall accrue and be perfect from the date of his first improvements, and no longer. And any Indian or Indians receiving a patent for land under the foregoing provisions shall thereby and from thenceforth become and be a citizen of the United States, and be entitled to all the privileges and immunities of such citizens, and shall at the same time retain all his right to benefits accruing to Indians under this treaty. (*U. S. Stat., XV.*)

A change of agents having taken place soon after the proclamation of this treaty, the new agent failed to comprehend its intent and provisions, so far as they especially concerned the Santee Sioux, and refused to allow our people to locate homesteads under its provisions, but instead thereof issued them certificates of selection and occupancy for 80 acre tracts to each individual under alleged authority of the act of March 3, 1863, under which we were first removed from the State of Minnesota. This act, so far as it is claimed to be pertinent, is as follows:

That the President is authorized, and hereby directed, to assign to and set apart for the Sisseton, Wahpeton, Mdewakanton, and Wahpakoota bands of Sioux Indians a tract of unoccupied land outside of the limits of any State, sufficient in extent to enable him to assign to each member of said band (who are willing to adopt the pursuit of agriculture), eighty acres of good agricultural lands, the same to be well adapted to agricultural purposes. (*Vol. 12, p. 819.*)

Our people unanimously protested against these 80-acre allotments as contrary to the promises and provisions of the treaty of 1869, and upon petition to the Indian Office at Washington we were allowed to surrender these 80-acre certificates, and permission was granted us to enter our lands at the local U. S. land-office, in accordance with the provisions of the treaty aforesaid, as above quoted.

Upon application at the land-office at Niobrara, Nebraska, our proofs were at first refused, on the ground that the 6th article of the treaty aforesaid was not sufficient authority in law to warrant this new class of entries of public lands. Upon appeal to the Hon. Secretary of

the Interior this decision was reversed, and in a letter to the officers of the U. S. land-office at Niobrara, orders were issued to that office to receive our entries and proofs under the provisions of article 6 of the treaty, proclaimed February 24, 1869. (*Vide C*, January 9, 1883, Land Office File.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,  
Washington, D. C., January 9, 1883.

REGISTER and RECEIVER, *Niobrara, Nebr.* :

GENTLEMEN: Under date of August 21, and again on September 30, last, this office rejected the application of Daniel Graham, a Santee Sioux Indian, to enter the SW.  $\frac{1}{4}$  12, 31, 5 W., being a portion of the Santee Sioux Reservation, on the ground, "that before an entry can be authorized within said reservation, under the provisions of article 6 of the treaty of February 24, 1869, there must be further legislation by Congress, as the treaty itself is not considered sufficient authority to warrant this office in allowing an entry. From this action an appeal was taken, and the honorable Secretary of the Interior decided under date of the 29th ultimo "that Graham is entitled to a patent under the concluding paragraph of the 6th article of the Sioux treaty proclaimed February 24, 1869. (15 Stat., p. 637.)

You will therefore allow the entry in accordance with said decision on application being presented in proper form, accompanied by the proof of two disinterested witnesses as to the amount of improvements made upon the land by the applicant. The regular homestead application (from No. 4-007) should be used, changing it where necessary, so as to indicate the entry as a Santee Sioux Indian homestead, under article 6 of the treaty of February 24, 1869. You will then enter it upon your records as No. 1 of this class of entries and forward it to this office, together with a register's abstract, in your regular monthly returns. No mention having been made in the treaty as to the payment of fees or commissions, none will be required, and a receiver's abstract is therefore not necessary.

Very respectfully,

N. C. McFARLAND,  
*Commissioner.*

Such of us as had already completed our residence and improvements in accordance with law gladly availed ourselves of this now adjudicated right, and from our first receipt of this information, in February, 1883, until April, 1885, no contrary information, having reached us, such entries were made by our people and accepted at the Land Office under the instructions and authority granted in the letter of January 9, 1883, above quoted.

By complying with the law as contained in the treaty of 1869 we obtained, as we supposed, a perfect title to our homesteads, and became thereby and thenceforth "citizens of the United States, entitled to all the privileges and immunities of such citizens."

In the winter of 1883 the following legislation was inserted in the bill making appropriation for the current and contingent expenses of the Indian Department. We quote it as inserted, to wit:

For pay of second blacksmith, and furnishing iron, steel, and other material, per eighth article of same treaty, \$2,000; in all one million seven hundred and thirty-seven thousand three hundred dollars: *Provided*, That the patents authorized to be issued to certain individual Indians by the concluding paragraph of article six of the treaty with the Sioux Indians, proclaimed the twenty-fourth day of February, eighteen hundred and sixty-nine, shall be of the legal effect and declare that the United States does and will hold the land thus allotted for the period of twenty-five years in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or in case of his decease, of his heirs, according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian or his heirs, as aforesaid in fee discharged of said trust, and free of all charge or incumbrance whatsoever, and no contract by any such Indian creating any charge or incumbrance thereon or liability of said land for payment thereof shall be valid. (U. S. Statutes, 1883.)

This action was taken without our knowledge or consent, either asked or obtained, and on March 1, 1883, this appropriation bill passed Congress and was approved by the President.

It will at once be seen that this is a retroactive law; that it interferes with and overthrows our dearest rights, privileges, and immunities, guaranteed us in solemn treaty and confirmed and proclaimed as law. To obtain these rights we made great sacrifices and exercised great self-denials. We at first gave up the greater land rights conferred upon those who consented to remove to the great Sioux reservation in Dakota Territory, and since we have surrendered all rations to which we were entitled under the treaty, that we might the sooner become a self-supporting people fitted for the duties and immunities of American citizenship.

Now, after a contest of fifteen years to obtain our rights, under a law especially framed for our benefit, we are, in violation of a solemn treaty and without our knowledge and consent, put off for a further period of twenty-five years, until the expiration of which we can neither obtain patents or enter upon our rights and duties as citizens. Before the expiration of this long period we shall all be dead, and so have made our long contention and exercised these great self-denials in vain.

To some of our white brethren this may seem to be a small matter, but to us, who by wise diligence have in one generation emerged from barbarism, and toilsomly ascended step by step until we have by our choice reached the full dignity of independent manhood, the very goal we have been urged and exhorted to strive to attain to, only to have our just and merited reward taken from us and suspended afar off and hopelessly beyond our reach, it seems a very great matter, and one which overcomes us with sorrow and threatens to absolutely dishearten the most enterprising of our people.

It is from no improper motives that we make this our humble and respectful petition, but from such as among civilized people would be accounted the highest and most sacred. The righteous solution of this difficulty deeply concerns the happiness of ourselves as individuals and the future welfare of our families.

We therefore humbly pray that such action may be taken by the present Congress as will make void the new legislation here called in question, and that we be allowed to perfect our land titles and our citizenship rights as provided in the treaty of 1869.

And we will ever pray.

Signed by—

Napoleon Wabasha; James Heart; Samuel; Samuel Wakub;  
Ben Whipple; Charles Ptegomani; George Goodthunder;  
David Ptegomani; Daniel Stomboy; Thomas Romillard;  
Tasso John; John Okoze, his x mark; George Teacher, his  
x mark; Marpi Yuderti; Samuel Thomas; George Quinn;  
Stephen Johns, his x mark; Tacan Kuwaité, his x mark;  
Alfred Goodthunder; Daniel Paypay, his x mark; Tamas  
Whipple.

Witnesses:

James A. Cooley; E. H. Chambers; Geo. G. Bayhu; John Bender; B. F. Chambers; C. A. Nippel.