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In the Senate of the United States. Letter from the Secretary of the Interior, relative to the sale of certain lands belonging to the Indians in Kansas

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IN THE SENATE OF THE UNITED STATES.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

RELATIVE TO

The sale of certain lands belonging to the Indians in Kansas.

MAY 6, 1892.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,

Washington, May 5, 1892.

SIR: I have the honor to transmit herewith copy of a communication of 17th ultimo from the Commissioner of Indian Affairs, submitting draft of a bill authorizing the issue of patents to the Swan Creek and Black River Chippewas and the Munsee or Christian Indians, of Kansas, and for the sale of their respective reservations in Kansas, and for other purposes.

I also transmit herewith copy of a communication of 2d instant from the honorable Assistant Attorney-General for the Department of the Interior, to whom the matter was referred.

Concurring in the views therein expressed that the object of the proposed legislation is apparently a proper one, I have caused the bill to be amended as suggested, and have the honor to recommend that the matter receive the favorable consideration and action of Congress.

I have the honor to be, very respectfully,

JOHN W. NOBLE,

Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

Washington, March 17, 1892.

SIR: Referring to my annual report for 1891, page 107, upon the Chippewa and Munsee reserve, in Kansas, recommending that Congress be asked to grant authority to issue patents in fee to the several allottees or their assigns, approved by the Secretary of the Interior, residing thereon, and that such lands as are vacant and abandoned, including the school and mission tract which is no longer needed for that purpose, be appraised and sold by the Commissioner of the General Land Office, the net proceeds arising from the sale thereof to be

placed in the Treasury of the United States for the use and benefit of those who have never received an allotment or who have been born since the allotments were made, to be paid over to such beneficiaries who are of age or as they may arrive at the age of 21 years, I have the honor to submit, herewith, the draft of a bill embodying the views of this office and of the Indians in carrying said measures into effect and respectfully recommend that, if it meets with your approval, it be laid before Congress for legislative enactment.

The condition of these Indians and the reasons calling for this legislation are set forth in my annual report herein referred to. In laying the matter of this contemplated legislation before the Indians, they suggest the issue of patents alienable only to members of the tribe for five years, to be nontaxable for that period, but these Indians possess more than the average degree of intelligence, and are as fully qualified now as they will be five years hence to take patents in fee. I have therefore incorporated in the bill submitted a provision that patents in fee shall be issued. I have prepared the bill so far in conformity with the wishes of the Indians as to provide for the issue of a patent for the NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ of Sec. 12, T. 17 S., R. 18 E., to the Moravian Church, or its constituted authorities, without any provision looking to reimbursement of said society for any improvements they may have made on the mission lands, holding that the transfer of the aforesaid 40 acres of land to said church will be an ample equivalent.

I have not adopted the suggestion made by these Indians as to the fund arising from the sale of their vacant or abandoned lands, for the reason that there are no lands in Indian Territory that can be purchased as a home for the members of the bands who have not received allotments, but have provided for its distribution to those who have not received allotments or who have not received the full quantity of land to which they would be entitled if there was a sufficiency of area for all.

I have also provided for the distribution per capita of the joint fund held by the United States under the third article of the treaty of 1859 (12 Stats., p. 1105), as they request.

I enclose, herewith, a copy of the agent's letter of January 25, 1892, submitting the views of the Indians on the proposed legislation.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

POTTAWATOMIE AND GREAT NEMAHA AGENCY,
Hoyt, Kans., January 25, 1892.

SIR: In compliance with your letter of instructions dated January 9, 1892, marked Land 30091, 1887, 342, 1892, I have the honor to report that I visited the reservation of the Chippewa and Munsee or Christian Indians on January 21 and 22, and notified them to meet me in council.

After reading your letter of instruction, and report to the honorable Secretary of the Interior, and explaining the purpose of your recommendation, they entered into a full discussion of the matters proposed in your report and the following action was taken by the tribe by a vote of the members: That we recommend that the Department obtain such legislation as will afford us the necessary relief in the matter of titles to our lands, first by the appointment of a competent commissioner to settle the question of title, and after such questions are settled, and the title of the allottee and heirs are fully established, that patents issue to the owners of such lands, alienable only to members of the tribe for five years, and nontaxable for the same length of time; and we further recommend that the vacant or abandoned school and

mission lands be appraised and sold, and after reimbursing the missionary society for actual improvements made on the school land out of the fund arising from the sale of said land, or at the discretion of the honorable Commissioner of Indian Affairs, that the northeast quarter of southwest quarter of section 12, on which tract of land the church building and dwelling house for the missionary are located, be assigned to said missionary society, and the remainder of the money resulting from said sale of vacant school land shall be invested in lands in the Indian Territory for the children born in the tribe since allotments were made or any others who are entitled to and have never received any land patents, to issue to said children as they arrive at age; and we also request as the questions of title are settled and patents are issued to the members of the tribe, that settlement be made by the Government and our cash balance be paid us.

The sentiment of the tribe seemed to me, in all their expressions, to be in accord with the recommendations of the honorable Commissioner, except in the disposal of the funds arising from the sale of the surplus land, and expressed the desire that it be reinvested in land for the benefit of their children in any lands the Government may select.

I explained to them that such a plan, in my opinion, was not feasible, and would not be favorably considered by the Department, but they insisted upon having it inserted in their request; but if their request can not be granted I do not believe it will change them in the least, and they will readily accept the suggestion of funding the amount for the benefit of the children.

I would respectfully recommend that the claim of the missionary society be favorably considered, as its influence has been of great benefit to these Indians, and the present missionary, Rev. Charles E. Steinfert, has, and is now, a restraining influence among these people, and only for the presence on the reservation of one Spooner, a white man of degraded life, would be a very helpful and useful factor in the lives of these people; he is now conducting a school for the benefit of the remaining children upon the reservation, and has the support of the better element of the tribe in his favor, and who are very much attached to him. For the good of the tribe this man Spooner ought to be expelled from the reservation.

Very respectfully,

J. A. SCOTT,
United States Indian Agent.

Hon. T. J. MORGAN,
Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, May 2, 1892.

SIR: I have the honor to acknowledge the receipt by reference of you of the letter of the Commissioner of Indian Affairs of March 17, 1892, referring to the lands of the Chippewa and Munsee Indians of Kansas, and submitting the draft of a proposed bill authorizing the issuance of patents therefor and the sale of unallotted lands, with a request for the expression of my views on the proposed legislation.

The object of the proposed legislation is apparently a proper one, and one the accomplishment of which would be of benefit to the Indians. While there seems to be no good objection to the object sought to be obtained by the proposed legislation, I do find some objections to certain provisions of the draft of a bill submitted.

In section 2 it is said "in the case of devise or descent by will, the proportionate share of each heir to a particular tract" is to be distinctly stated. What is meant by the phrase "descent by will" is not quite clear, but I take it that what is intended is to secure a statement of the present ownership of each tract in those cases where the allottee has died. It is not stated, however, what rule shall be observed in determining such question; that is, whether the law of the State or some other rule shall govern.

In section 3 it is stated "patents in fee shall issue in favor of those persons found by the Secretary of the Interior to be entitled to the land held, devised, or inherited by them." I suppose it is intended to pro-

vide for issuance of patents to all persons holding lands, whether by way of allotment, purchase, devise, or inheritance, and it should be stated in that form.

I can not see the reason or justice in the exception contained in section 8. It seems to me one ought not to be deprived of his interest in these lands acquired by inheritance any more than he should of an interest acquired by purchase. There may, however, be some reason for this provision that is not disclosed by the papers before me.

Section 9 of this proposed bill makes a distinction between an Indian whose parent having had an allotment has died and one whose parent having had an allotment still lives, in favor of the latter. The latter, it is presumed, will profit by the allotment to his parent to the same extent as the former. It would seem that all those who have had no allotment should share equally in the proceeds of the proposed sale of lands.

In section 9 it is provided that the net proceeds derived from the sale of lands shall be placed in the Treasury to the credit, etc., which would indicate that the expenses of the sale are to be paid out of the price of said lands. In section 12, however, \$1,000 is appropriated to carry out the provisions of said act, to be reimbursed out of the funds of said Indians now held for them by the United States.

These two provisions seem to be in conflict. The provisions as to what fund these expenses are to be paid out of should be made so clear and explicit as to prevent any dispute as to their meaning.

The bill should not, in my opinion, be submitted in its present form, and I therefore suggest the following changes:

Amend section 2 by striking out the words "in the case of devise or descent by will the proportionate share of each heir to a particular tract to be clearly and distinctly stated," and inserting in lieu thereof the following:

Where any tract is claimed by tenants in common either as heirs of a deceased allottee or otherwise, the interest of each claimant in such tract to be clearly and distinctly stated, the ownership of lands of deceased allottees to be determined under the laws of Kansas relating to descent.

Amend section 3 by striking out the words "devised or inherited," found in the last line of said section.

Amend section 8 by striking out the words "except such as have received allotments under the treaty," found in the second line thereof.

Strike out sections 9 and 10 and insert in lieu thereof the following:

SEC. 9. That the net proceeds derived from the sale of the lands herein authorized to be sold, after payment of the expenses of appraisal and sale thereof, shall be placed in the Treasury for the benefit of those members of said bands of Indians who have not received any land by allotment, and shall be paid per capita to those entitled to share therein who are of age and to others as they shall arrive at the age of twenty-one years, upon the order of the Secretary of the Interior, or shall be expended for their benefit in such manner as the Secretary of the Interior may deem for their best interest.

Section 11 to be numbered 10.

Section 12 to be numbered 11. Said section should be further amended by inserting after the word "reimbursed," in line 5, the following: "as follows, all expenses of appraisal and sale out of the proceeds of such sale, and all other expenses."

Sections 13 and 14 to be numbered 12 and 13, respectively.

The papers submitted to me are herewith returned.

Very respectfully,

GEO. H. SHIELDS,
Assistant Attorney-General.

The SECRETARY OF THE INTERIOR.

A BILL authorizing the issue of patents to the Swan Creek and Black River Chippewas and the Munsee or Christian Indians of Kansas, and for the sale of their reservation in Kansas and for other purposes.

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, directed to appoint a discreet person as a commissioner, who shall visit the Chippewa and Christian Indian reservation in Franklin County, Kansas, and make a thorough investigation and full report of the title of the individual members of said bands in and to the several tracts of land therein which have been allotted to said members, for which certificates have been issued by the Commissioner of Indian Affairs, as provided in the first article of the treaty of July sixteenth, eighteen hundred and forty-nine, with the Swan Creek and Black River Chippewas, and the Munsee or Christian Indians of Kansas.

SEC. 2. That said commissioner shall take a census of said Indians, the enrollment to be made upon separate lists; the first to include all of said bands who hold title to land either by original allotment and certificate, by purchase and approved conveyance, or by inheritance, with a description of the land so held or owned by each, and where any tract is claimed by tenants in common, either as heirs of a deceased allottee or otherwise, the interest of each claimant in such tract to be clearly and distinctly stated, the ownership of lands of deceased allottees to be determined under the laws of Kansas relating to descent; and the second list to embrace all of said bands who have not received an allotment of land, but would, if there were sufficient land, be entitled thereto under the treaty.

SEC. 3. That upon the approval of said census and the report of said commissioner by the Secretary of the Interior, patents in fee shall issue in favor of those persons found by the Secretary of the Interior to be entitled to the land held by them.

SEC. 4. Where there are several heirs and partition of land is not practicable, upon the joint request of said heirs said land may be appraised and sold as hereinafter directed, and the net proceeds paid to said heirs according to the respective title or share each may have in said land.

SEC. 5. That the Secretary of the Interior be, and he is hereby, authorized to issue a patent in fee to the Moravian Church or its constituted authorities, for the northeast quarter of the southwest quarter of section twelve, of township seventeen south, of range eighteen east, in Kansas.

SEC. 6. That the residue of their lands shall be appraised by a commission consisting of said commissioner, the Indian agent, and a person to be selected by the Indians, in open council, who shall report the same to the Commissioner of Indian Affairs; that said commission shall place a valuation for purposes hereinafter named on all tracts of land now owned or held by inheritance, and make a separate report thereof.

SEC. 7. That upon the approval of said appraisement by the Secretary of the Interior, he shall offer said residue of lands, and such other lands, if any, as said heirs may have given their written consent thereto, at the proper land office in Kansas, in such manner and upon such terms as he may deem advisable, except that the time for full and complete payment shall not exceed one year, with clause of absolute forfeiture in case of default: *And provided,* That the same shall be sold to the highest bidder, and at a price not less than the appraised value.

SEC. 8. That where an allottee has died leaving no heirs, except such as have received allotments under the treaty or has abandoned his or her allotment and has not resided thereon or lived within the said reservation for three consecutive years, the lands and improvements of such allottees shall be appraised and sold in like manner as other lands herein described, as provided in section seven.

SEC. 9. That the net proceeds derived from the sale of the lands herein authorized to be sold, after payment of the expenses of appraisal and sale thereof, shall be placed in the Treasury for the benefit of those members of said bands of Indians who have not received any land by allotment, and shall be paid per capita to those entitled to share therein who are of age, and to others as they shall arrive at the age of twenty-one years, upon the order of the Secretary of the Interior or shall be expended for their benefit in such manner as the Secretary of the Interior may deem for their best interest.

SEC. 10. That when a purchaser shall have made full payment for a tract of land, as herein provided, patent shall be issued as in case of public lands under the homestead and pre-emption laws.

SEC. 11. That, for the purpose of carrying out the provisions of this act, there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one thousand dollars, or so much thereof as may be necessary, which sum shall be reimbursed as follows: all expenses of appraisal and sale out of the proceeds of such sale, and all other expenses out of the funds of said Chippewa and Munsee or Christian Indians, now held for them by the United States, said sum being on the first day of January, eighteen hundred and ninety-two, forty-two thousand five hundred and sixty dollars and thirty-six cents.

SEC. 12. That the Secretary of the Interior be, and he is hereby, authorized to pay over to the said Chippewa and Munsee or Christian Indians, per capita, the remainder of said funds after deducting the expenses incurred in carrying out the provisions of this act.

SEC. 13. That no proceedings shall be taken under this act until the said bands of Indians shall file with the Commissioner of Indian Affairs their consent thereto, expressed in open council.