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Mille Lac Indian Reservation.

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Calendar No., 1092.

55TH CONGRESS, }
2d Session. }

SENATE.

{ REPORT
{ No. 1007.

MILLE LAC INDIAN RESERVATION.

MAY 9, 1898.—Ordered to be printed.

Mr. NELSON, from the Committee on Public Lands, submitted the following

REPORT.

[To accompany H. Res. 245.]

The Committee on Public Lands, to whom was referred the joint resolution (H. Res. 245) declaring lands within the former Mille Lac Indian Reservation, in Minnesota, to be subject to entry under the land laws of the United States, having had the same under consideration, report the resolution to the Senate with the recommendation that it pass.

Attention is called to the House report on this measure, which is adopted as the report of the committee.

[House Report No. 1174, Fifty-fifth Congress, second session.]

The Committee on the Public Lands, to whom was referred the joint resolution (H. Res. 35) declaring lands within the former Mille Lac Indian Reservation, in Minnesota, to be subject to entry under the land laws of the United States, having had the same under consideration, report the joint resolution H. Res. 245 as a substitute and recommend its passage.

The report of the Secretary of the Interior, accompanied by the report of the Commissioner of the General Land Office, on this resolution and the bill H. R. 5178 are incorporated in this report and made a part thereof.

These letters of the Secretary of the Interior and Commissioner of the General Land Office fully set forth the status of this former Mille Lac Indian Reservation and the reasons why this resolution should pass.

DEPARTMENT OF THE INTERIOR,
Washington, March 13, 1898.

SIR: Referring to your letter of the 11th ultimo, transmitting for my consideration joint resolution No. 35, introduced into the House by Mr. Morris, of Minnesota, "Declaring the lands within the former Mille Lac Indian Reservation, in Minnesota, subject to entry under the land laws of the United States," I have the honor to hand you herewith a copy of a report from the Commissioner of the General Land Office on said resolution, dated the 1st instant; also a copy of my report on H. R. 5178, in which, for reasons therein stated, I recommend the substitution of this resolution for said bill.

Very respectfully,

C. N. BLISS,
Secretary.

HON. JOHN F. LACEY,
Chairman Committee on the Public Lands, House of Representatives.

MILLE LAC INDIAN RESERVATION.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 1, 1898.

SIR: I am in receipt, by departmental reference of February 14, 1898, for report in duplicate and return of papers, of H. Res. 35, "Declaring the lands within the former Mille Lac Indian Reservation, in Minnesota, to be subject to entry under the land laws of the United States," together with a request from Hon. John F. Lacey, chairman of the Committee on the Public Lands, House of Representatives, for any suggestions or information that may aid the committee in its consideration of the same.

In reply I have the honor to inclose a copy of a report made by me March 1, 1898, on H. R. 5178, "Allowing actual settlers upon lands within the Mille Lac Indian Reservation, in the State of Minnesota, to perfect title to lands in said reservation under the general land laws of the United States," wherein my views are expressed on the question of opening to entry or filings the remaining lands in said reservation.

In addition thereto I have to state that the entries and preemption filings made for these lands between January 21, 1891, when the Department held that the Mille Lac lands should be disposed of as other public lands, and the decision of April 23, 1892 (14 L. D., 497), when the Department decided that the said lands were not subject to disposal under the general land laws, but under the special provisions of the act of January 14, 1889 (25 Stat., 642), were recognized and confirmed by the joint resolution of December 19, 1893 (28 Stat., 578), and, so far as these are concerned, no necessity exists for the passage of the resolution.

I am of the opinion that preemption filings, where the alleged rights to the lands have been or shall be initiated subsequent to April 22, 1892, should in no event be allowed, as this would be reenacting for the benefit of a few persons on this small Indian reservation the preemption law which was repealed by the act of March 3, 1891 (26 Stat., 1095). Therefore I do not recommend the passage of the resolution in its present form, but if amended as suggested in the last paragraph would recommend the passage of the resolution.

The papers are herewith returned.

Very respectfully,

BINGER HERMANN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 1, 1898.

SIR: I have had the honor to receive, by departmental reference under date of January 13, 1897, for early report in duplicate, and return of papers, a letter from the Committee on Indian Affairs of the House of Representatives, inclosing the bill H. R. 5178, allowing actual settlers upon lands within the Mille Lac Indian Reservation, in the State of Minnesota, to perfect title to lands in said reservation under the general land laws of the United States.

In reply I have the honor to state that said bill is identical with one (H. R. 4993) upon which this office made report on May 28, 1896.

The Mille Lac Reservation in the State of Minnesota was established in accordance with the stipulations in article 2 of the treaty of February 22, 1855 (10 Stat., 1165), with the Chippewa Indians.

By the treaties of March 11, 1863 (12 Stat., 1249), May 7, 1864 (13 Stat., 695), and March 19, 1867 (16 Stat., 719), this reservation and others were ceded to the United States, other lands being reserved for said Indians in lieu of those ceded. In both the treaty of March 11, 1863, and the subsequent treaty of May 7, 1864, it was provided—

That owing to the heretofore good conduct of the Mille Lac Indians, they shall not be compelled to remove so long as they shall not interfere with or in any manner molest the persons or property of the whites.

The act of Congress of July 4, 1884 (23 Stat., 89), provided that said lands "shall not be patented or disposed of in any manner until further legislation by Congress."

Prior to July, 1884, a number of entries, filings, and selections had been made for lands in the Mille Lac Reservation, and, by decision of January 9, 1891, the Department held that these were confirmed by the proviso to section 6 of the said act of January 14, 1889. (See 12 L. D., 52.) And under date of January 21, 1891, the Department, in response to an inquiry by this office, stated that the Mille Lac lands should be disposed of as other public lands.

On September 3, 1891, the Department held (13 L. D., 230) that the Mille Lac lands were subject to disposal under the special provisions of the act of January 14, 1889, supra, and when attention was called by this office to the discrepancy between the rulings of January 21, 1891, and September 3, 1891, the Department decided, on April 22, 1892 (14 L. D., 497), that the Mille Lac lands are not subject to disposition under the general land laws, but under the special provision of the act of January 14, 1889. During the period between the decision of January 21, 1891, and April 22, 1892, a large

number of entries and filings to these lands had been allowed, and these were confirmed by the joint resolution of December 19, 1893 (28 Stat., 576).

Of the lands in this reservation it appears from the records of this office that about 12,796.99 acres are embraced in the pending entries, filings, selections, and rejected homestead applications; 42,685.44 acres have been patented, and that there remain about 5,305.24 acres unappropriated, of which 3,022.32 acres are in sections 16 and 36. Owing to the fact that action is being taken from time to time on these entries, filings, selections, and applications, the above figures are necessarily only approximately correct.

On January 14, 1889, Congress passed "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota." (25 Stat., 642.) The first section of said act authorizes and directs the President to appoint three commissioners, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment, in writing, of all their title and interest in and to all the reservations of said Indians in the State of Minnesota except the White Earth and Red Lake reservations.

Section 3 of said act provides for the removal of all Chippewa Indians in Minnesota, except those on the Red Lake Reservation, to the White Earth Reservation, and for the allotment, in conformity with the act of February 8, 1887 (24 Stat., 388), to the Red Lake Indians of lands on that reservation, and to the other said Indians' lands on the White Earth Reservation. Said section further provides:

That any of the Indians residing on any of said reservations may, in his discretion, take his allotment in severalty under this act on the reservation where he lives at the time the removal herein provided for is effected, instead of being removed to and taking such allotment on White Earth Reservation.

No specific mention is made in this act of the Mille Lac Indians and the lands occupied by them, which, as was stated above, were ceded to the United States in 1863. However, the Mille Lacs were treated with under said act.

The assent, acceptance, or ratification of the said Mille Lac Indians was executed on October 5, 1889, and after reciting that the act of January 14, 1889, above, had been read, interpreted, and thoroughly explained to their understanding, and after expressing their consent to, acceptance, and ratification of said act, stated that they—

Do hereby grant, cede, relinquish, and convey to the United States all our right, title, and interest in and to all and so much of the White Earth Reservation as is not required and reserved under and in accordance with the provisions of said act, to make and fill the allotments, * * * and we do also hereby grant, cede, and relinquish to the United States, for the purposes and upon the terms stated in said act, all our right, title, and interest in and to the land reserved by us and described in the first article * * * of the treaty * * * proclaimed April 18, 1867 (16 Stat., 719), and also to the aforesaid executive addition thereto; * * * we do also hereby cede and relinquish to the United States all our right, title, and interest in and to all and so much of the Red Lake Reservation as is not required and reserved under and in accordance with the provisions of said act to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided; and we do also hereby forever relinquish to the United States the right of occupancy on the Mille Lac Reservation reserved to us by the twelfth article of the treaty of May 7, 1864 (13 Stat., 693). (See page 45, H. R. Ex. Doc. 247, Fifty-first Congress, first session.)

The words of the last clause seem clearly to have been an exercise of the right of election authorized by the proviso to section 3 of the act above mentioned. Said words were not necessary to the extinguishment of the title of said Indians to the lands, the words occurring before in the agreement being sufficient for that purpose. Having elected in this manner not to take the allotments on what was their own particular reservation, they can only properly take on the White Earth Reservation. Thus any hindrance on this account to the passage of the bill is removed.

It may be proper to add that at any rate the land is insufficient in quantity and unfit in quality for the purpose of allotment.

The said act of January 14, 1889, provides that the unallotted and unreserved land of said Chippewa Reservation shall be disposed of for the benefit of said Indians, and the bill makes no provision for the reimbursement of the fund to be derived from the sale of the said land on account of any lands to be entered under the proposed legislation.

However, in view of the fact that much of said lands is already covered by filings, selections, and claims, as hereinbefore stated, and in view of the waiver of the right by said Indians to elect to take the lands as above stated, to say nothing of the insufficiency and unsuitability of said lands for such purpose, and of the equity of the claimants to said lands by reason of the departmental decisions above referred to, I am impelled to look favorably on the proposed legislation, and I therefore have the honor to recommend the passage of the bill.

It is asserted that there are burial grounds of the said Indian band located on said

land, and that the Indians feel an attachment for the locality on that account. It might be well for Congress to make some provisions for the perpetual reservation of said burial grounds, or the removal of the dead buried therein to the White Earth Reservation.

The bill and accompanying letter are herewith returned.

Very respectfully,

BINGER HERMANN, *Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, March 18, 1898.

SIR: Referring to the reference by your committee, on January 11 last, of the bill H. R. 5178 entitled "A bill allowing actual settlers on lands within the Mille Lac Indian Reservation, in the State of Minnesota, to perfect title to the lands in said reservation under the general land laws of the United States," to this Department with a request for a report thereon, I have the honor to hand you herewith copy of a report on said bill by the Commissioner of the General Land Office, dated the 1st instant, and a copy of a report by the Commissioner of Indian Affairs, dated the 17th instant, both of whom, for reasons set forth in their respective reports, recommend the passage of the bill, and both of whom suggest that the bill be so amended as to provide for the protection of the burial grounds of the said Indians in said reservation.

Your attention is also called to House resolution No. 35, relating to the same subject, referred to me for report by the chairman of the Committee on the Public Lands of the House.

From the facts in the case, as disclosed by the reports of the Commissioner of Indian Affairs, it appears that by treaties in 1863-64 these Indians ceded all their lands in this reservation to the Government, taking other lands in lieu thereof; that they were permitted by the terms of said treaty to remain on said reservation so long as they did not interfere with the persons or property of the whites, and that by further treaty or agreement, dated October 5, 1889, entered into with the commissioners appointed under the act of January 14, 1889 (25 Stat., 624), known as the Nelson Act, they relinquish their right of occupancy on said reservation after electing not to take any allotments on that reservation, which, under the terms of the Nelson Act, they might have done.

It would appear, therefore, that the Indians, after due consideration and in the most formal manner, have, by treaty and agreement duly executed, parted with all their rights to the lands in this reservation. That being true, it is not apparent why the equities of settlers who have in good faith gone upon these lands under the belief that they were vacant public lands of the United States, and made valuable improvements on them, should not be recognized by the passage of some law that would permit said settlers to perfect their title to said lands. Such an act would be no infringement upon the rights of the Indians, for the reasons above stated.

It further appears that these lands do not come under either of the two classes of lands referred to in my letter of the 5th instant with reference to H. R. 6896, known as the "Free Home Bill," and hence the passage of such a bill as I have suggested would not conflict with the opinions expressed in my letter of that date, nor with the policy therein recommended.

In this connection your attention is called to the report of the Commissioner of the General Land Office on House resolution No. 35. It appears to me that if this resolution were amended in accordance with the suggestion of the Commissioner in respect to preemption filings, and in accordance with the recommendation of the said Commissioner and the Commissioner of Indian Affairs in reference to protecting the burial grounds of said Indians, said resolution would better accomplish the purpose desired.

I would therefore recommend, when the same is amended as hereinafter suggested, the substitution of House resolution 35 for H. R. 5178, and its enactment into law; and the amendments I would recommend to said resolution are as follows:

In line 6 of said resolution omit, after the word "under," "the preemption or homestead," and insert in lieu thereof "the public land;" and after the word "made," in line 8, insert "prior to the repeal of the preemption law by the act of March 3, 1891," or "prior to March 3, 1891." The latter expression would probably be better, because briefer.

After the word "entry," in line 11 of said resolution, there should be added a provision looking to the protection of the burial grounds of said Indians on said reservation.

Very respectfully,

C. N. BLISS,
Secretary.

Hon. JAMES S. SHERMAN,
Chairman Committee on Indian Affairs, House of Representatives.