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### Chelan, Okanogan County, Wash

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CHELAN, OKANOGAN COUNTY, WASH.

FEBRUARY 9, 1892.—Referred to the House Calendar and ordered to be printed.

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

REPORT:

[To accompany H. R. 2568.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 2568) for the relief of the inhabitants of the town of Chelan, in Okanogan County, State of Washington, submit the following report:

The lands in question were required for town-site purposes under the laws of the United States, and as such were located by Charles H. Ballard, judge of probate, in trust for the inhabitants of Chelan. Pending this a treaty was made releasing the Indian title, the legislation concerning which precluded the location of any of the lands embraced in the treaty only under the homestead laws.

Inasmuch as town sites can not be located under the homestead law, and homesteads can not be located or lands selected as town sites, no title can be given to the lands without an enabling act of Congress. The Committee find no adverse claims, and therefore report the bill to the House with the recommendation that it pass.

DEPARTMENT OF THE INTERIOR,  
Washington, February 8, 1892.

SIR: I have the honor to inclose herewith a copy of the report to me by the Commissioner of the General Land Office, dated the 3d instant, on H. R. 2568, "For the relief of the inhabitants of the town of Chelan, in Okanogan County, State of Washington," in response to the reference of a copy of the bill to the Commissioner for report by Hon. B. G. Stout, of your committee.

Very respectfully,

JOHN W. NOBLE,  
Secretary.

Hon. T. C. McRAE,  
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,  
Washington, D. C., February 3, 1892.

SIR: I have had the honor to receive from Hon. Mr. Stout, of the Committee on the Public Lands of the House of Representatives, for report thereon, House bill No. 2568, entitled "A bill for the relief of the town of Chelan, in Okanogan County, State of Washington," which reads as follows, viz:

"That the Commissioner of the General Land Office be, and he is hereby, authorized to issue a patent for the following tract of public land, to wit: The northeast

quarter of section thirteen in township twenty-seven north, range twenty-two east, in Okanogan County, Washington, upon the entry made at the North Yakima local land office for said land by Charles H. Ballard, probate judge for said county, in trust for the use and benefit of the inhabitants of the town of Chelan, in said county, under the town-site laws, being cash entry numbered one thousand and sixty-four of said North Yakima series of entries."

In reference to the subject I have to report that a letter was addressed by this office to L. H. Woodin, esq., Chelan, Wash., under date of the 12th February, 1891, which I quote as follows, to show the status of the entry which this bill proposes to have patented, viz:

"I am in receipt, by reference, of your letter of the sixteenth ultimo, addressed to Hon. John L. Wilson, relative to the legality of cash entry No. 1064, of the NE.  $\frac{1}{4}$ , Sec. 13, T. 27 N., R. 22 E., North Yakima land district, Washington, and in reply I have to state that said entry was made by Charles H. Ballard, probate judge, in trust for the several use and benefit of the occupants thereof as the town site of Chelan, Washington, according to their respective interests. The proof upon which this entry was allowed is complete in all respects but one, viz, the population of the town, which is alleged to be "about one hundred," a statement which, in connection with this proof, is entirely too indefinite.

"Aside from the question of defective proof, I find that the entry was improperly allowed and illegal. The land entered is within that portion of the Columbia Indian Reservation restored to the public domain by the 'act making appropriation for the current and contingent expenses of the Indian Department,' etc., approved July 4, 1884 (23 Stats., 79), and made subject to disposal 'to actual settlers under the homestead laws only, except such portion thereof as may properly be subject to sale under the laws relating to entry of timber lands and of mineral lands, the entry of which shall be governed by the laws now in force concerning the entry of such lands.' While it is true that section 2287, U. S. Rev. Stat., under which this entry was made, provides that 'whenever any portion of the public lands have been or may be settled upon and occupied as a town site,' it is lawful under certain conditions and upon proper showing to allow a town-site entry of the land thus occupied, yet that portion of said section above quoted has reference to public lands that have not been specifically made subject to entry under other laws than those relating to town sites. To construe the language of said section otherwise would be to empower a body of town settlers to defeat the express provisions of Congress itself. The land in question having been specifically made subject to entry under the homestead, timber-land, and mineral-land laws, a town-site entry of the same can not be allowed. Said entry, therefore, will have to be suspended, and, in the absence of any additional legislation affecting the tract covered thereby, eventually canceled. It is proper to further state that although the entry before me can not be approved at this time, nevertheless the occupancy of the land for trade and business by a sufficient population effectually reserves the same from homestead entry." (See sections 2258 and 2289, U. S. Rev. Stats.)

From an examination of the official record, it appears that there is no conflict with the entry in question and that there is no protest or contest affecting the same. If Congress is satisfied with reference to the sufficiency of the population of the town, which it appears is shown in the proof to be about "one hundred," I see no objection to the passage of said bill, the copy of which received from Mr. Stout is herewith inclosed.

Very respectfully,

THOS. H. CARTER,  
Commissioner.

The SECRETARY OF THE INTERIOR.