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Letter from the Secretary of the Interior,  
transmitting information in regard to Kansa Half-  
Breed reservations.

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KANSAS HALF-BREED RESERVATIONS. •

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LETTER

FROM THE

SECRETARY OF THE INTERIOR,

TRANSMITTING

*Information in regard to Kansas Half-Breed Reservations.*

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MAY 10, 1858.—Ordered to be printed.

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DEPARTMENT OF THE INTERIOR,  
May 6, 1858.

SIR: I have the honor to submit, in reply to the resolution of the House, dated January 19, 1858, the following statement of facts in relation to the condition of the twenty-three sections of land on the north bank of the Kansas river, in Kansas Territory, which, by the sixth article of the treaty of St. Louis, were reserved from the cession then made by the Kansas nation for the benefit of certain half-breeds therein named.

It appears from the most authentic information in the possession of the Indian Office, that but nine of the original reservees are known to be surviving. Of these, four only are residing upon the reservations. They do not, however, reside upon their own reservations, but are collected upon sections one and two, which were assigned by the treaty to the two children of Clement. It is not known with accuracy at the Indian Office where the remaining survivors reside, and whether those who are deceased left children who survive. With the exception of the two sections mentioned, and perhaps one other, the reservations are in the possession of white settlers, some sixty or seventy in number, who have occupied them without authority of law, and who maintain their possession by force. In some instances the reservees have been compelled to abandon their improvements by threats, and in others they have been forcibly expelled.

The second paragraph of the resolution calls for my opinion "as to the policy or propriety of taking the necessary steps to extinguish the Indian title to all reservations under any treaty with said Indians in the Territory of Kansas, protecting the rights of the Indians, and of giving to said Indians the fee in said lands."

In reply to this, I have to say that, in my opinion, it would be proper to authorize the original reservees or their heirs to sell their land, under such restrictions as may be necessary to protect them against fraud, and to secure them a fair price for the land, should they desire to sell. This would be equivalent to granting them the fee of the land, and is a measure of relief to which the half-breeds are equitably entitled.

It is true that the treaty of St. Louis did not extinguish the Indian title to these lands; still I cannot think that it was meant that the reservees should have the land only while they lived upon it, and that when they removed from the land, or died, their estate determined. The terms of the treaty did not require the reservees to reside upon the tracts assigned, and the language used gave not a floating, but a fixed right, and pointed out with some minuteness of detail the particular tract to be assigned to each individual. In 1827, the lands were surveyed, and each section was assigned to the individual to whom it was secured by the treaty.

From all these circumstances it may fairly be inferred that the right of occupancy granted was not designed to be personal merely, but was to exist as a perpetuity in the half-breeds and their descendants. They had all the rights incident to an estate in fee simple, except the right to sell, and this, I think, should now be given them. At the date of the treaty of St. Louis it was the policy of the government to retain the country west of the Mississippi for the exclusive occupancy of the tribes then in possession, or who might be removed there, and there is no propriety in construing rights granted to Indians, under these circumstances, by technical legal rules. It was meant that these particular tracts of land should belong to these particular Indians; the Indians so understood it, and the government of the United States so understood it, and it is but just that such additional recognition of their rights should be placed of record, as the altered condition of affairs in the Indian country requires.

How far it would be proper, in carrying out this policy, to afford the settlers upon these lands an opportunity of purchasing the tracts upon which their improvements are located is a question which addresses itself exclusively to the consideration of Congress.

With great respect, your obedient servant,

J. THOMPSON,  
*Secretary.*

HON. JAMES L. ORR,  
*Speaker of the House of Representatives.*