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Ogden Land Company. Letter from the Secretary of the Interior, transmitting a report and an accompanying letter from Philip C. Garrett, of Philadelphia, Indian Commissioner, relating to negotiations concerning the Ogden Land Company and Indian reservations in New York.

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OGDEN LAND COMPANY.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

A REPORT AND AN ACCOMPANYING LETTER FROM PHILIP C. GARRETT, OF PHILADELPHIA, INDIAN COMMISSIONER, RELATING TO NEGOTIATIONS CONCERNING THE OGDEN LAND COMPANY AND INDIAN RESERVATIONS IN NEW YORK.

FEBRUARY 23, 1897.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, February 20, 1897.

SIR: In compliance with the provisions of the act of March 2, 1895 (28 Stat. L., 887), authorizing the Secretary of the Interior to negotiate with the Ogden Land Company for the purchase of the interests said company may possess, if any, in the Cattaraugus and Allegany Indian reservations in the State of New York, and also to negotiate with said Indians under such rules and regulations as he may prescribe as to the terms upon which the said Indians will consent to the United States purchasing the interest of said company in said reservations, if such interest is found to exist, and requiring a full report to Congress of the proceedings under the provision, I have the honor to transmit herewith a report and accompanying letter from Mr. Philip C. Garrett, of Philadelphia, member of the Board of Indian Commissioners, who was commissioned by the Department to represent the Government in the negotiations provided for, together with the letter of the Commissioner of Indian Affairs forwarding the same to the Department.

Mr. Garrett reports his failure to conclude an agreement either with the Ogden Land Company or with the Indians.

Very respectfully,

D. R. FRANCIS, *Secretary.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., December 17, 1896.

SIR: A clause in the act of Congress approved March 2, 1895 (28 Stat. L., 887), provides:

That the Secretary of the Interior be, and he is hereby, authorized to negotiate with the Ogden Land Company for the purchase of the interests said company may

possess, if any, in the Cattaraugus and Allegany Indian reservations in the State of New York.

He is also authorized to negotiate with the said Indians, under such rules and regulations as he may prescribe, as to the terms upon which the said Indians will consent to the United States purchasing the interest of said company in said reservations, if such interest is found to exist, and the Secretary of the Interior shall make a full report to Congress of his proceedings under this provision.

Mr. Philip C. Garrett, of Philadelphia, who had been commissioned by the Department to represent the Government in the negotiations thus provided for, proceeded in accordance with office letter of instructions dated September 3, and approved by the Department September 5, 1896.

I am now in receipt of a letter dated December 10, from Mr. Garrett, inclosing one addressed by him to the Department dated December 4, in which he reports his failure to conclude an agreement either with the Ogden Land Company, or with the Indians.

I inclose two copies of Mr. Garrett's said letters—one for the President of the Senate and one for the Speaker of the House of Representatives—and also the originals, with request that the latter be returned to the files of this office so soon as the Department shall have finished with them.

Very respectfully, your obedient servant,

D. M. BROWNING, *Commissioner*.

The SECRETARY OF THE INTERIOR.

BOARD OF INDIAN COMMISSIONERS,
Philadelphia, December 10, 1896.

SIR: In transmitting through you herewith my report to the Secretary of the Interior on the recent negotiations with the Ogden Land Company and with the Seneca Indians, permit me to enlarge a little on the observations and conclusions in the report.

My effort was a very positive and resolute one, both to induce the Ogden Land Company to accept a more reasonable price for their claim, and to get the Indians to make some concession, and consent that the claim should be bought, provided it might be done in a way that would be to their interest, by leading to a sale of their leased lands, now yielding them no income individually.

The Ogden Land Company's agents would not concede anything, although the figure they named is from five to ten times higher than that asked by the company some years since on the testimony of one of Mr. Hooker's constituents; and the Indians, while treating the Commissioner with respect, had "their backs up" as to the demands of the Ogden Land Company, did not want ever to sell their lands, and were inflexibly opposed to recognizing the claim in any way.

Without wearisome recital of my propositions, suffice it to say that I sought by modifications to put them in a form in which the Indians could accept them without sacrifice either of their interests or their dignity. They were immovable, and I was finally obliged to abandon the attempt, though not without first trying to bring about a reconsideration of the vote and the postponement till next spring. This was also voted down by the council.

In thinking the subject over since, I am not sure but the Indians are right. If I were arguing their case before the Supreme Court I would endeavor to induce that court in this instance to set aside the precedents which recognize the title of the Crown of England as the founda-

tion of the title to this land, on the ground of discovery and conquest. Here is a case of now civilized people who occupied the land before its "discovery," and have never been subjugated. They possessed the land then, and have never been dispossessed. They possess it still, and even the Ogden Land Company know they have a right of occupancy forever, if they elect to stay.

Moreover, conquest does not imply confiscation of the fee ownership of land. If England were to conquer Belgium the fee to the Belgian real estate would not be forfeited. Only the territorial sovereignty and government would change hands. It seems to me time that these undoubtedly civilized Indians, who have been in uninterrupted possession of their lands from a date prior to the discovery of America by Columbus, should be admitted to have a title antecedent and superior to that of the Crown of England.

But waiving this line of argument and accepting either of the theories of ownership commonly applied to this land, viz, either that it belongs to the Seneca Nation, subject to the right of preemption by the Ogden Land Company, or, as the latter prefer, that it belongs to the Ogden Land Company under the Crown grant to Massachusetts, but subject to the perpetual right of occupancy by the Senecas.

Let the Ogden Land Company take either horn of the dilemma, and neither gives money value to their claim.

It may be a valid claim in the sense that it has a certain legal basis; I believe it is. But of what avail is this to them if it has not a basis of mercantile value? There is absolutely no customer for it but the United States Government, and why, then, should the Government give \$1,000 for it? If it is the property of the Indians, it is without salability until they want to sell, and they say they want never to sell. And if the fee resides in the Ogden Land Company, subject to a perpetual right of occupancy by the Indians, the land is not salable till the Indians cease to occupy it. It is easy to see that any value the land may have now or twenty years hence will be annihilated by twenty years' discount at 5 per cent. Where, then, is its value in dollars? It has absolutely no commercial value.

Indications point to an effort on the part of persons interested in the sale of this claim to procure an appropriation by Congress to put the claim at a price over \$200,000. If it were \$20,000 it would be more reasonable. As the Government is the sole buyer it can command fair terms, or can let the matter rest. The Indians, who have shrewd men among them, express themselves as willing to take the chances.

As to one or two other conditions:

ALLOTMENT IN SEVERALTY.

It is my decided opinion that Congress ought to pass a law extending to those Senecas who wish to take their proportion of these two reservations in severalty the privilege of doing so. At a recent election there were some 40 persons who favored the division of their land. These ought to be allowed to take their proportion and to receive citizenship, and they should have the first choice of land, under a discreet allotting agent, and the advantages that would accrue to them would be a stimulus to the rest of the nation. I am more than ever convinced that these Indians are shrewd, intelligent, and abundantly able to take care of themselves. They are, however, timorous, and many of them doubtful of trying new things. A few good examples of individual ownership and citizenship would do much to remove these vague apprehensions.

CORRUPT PRACTICES.

Many of the Indians are increasingly dissatisfied with their tribal government. The sender of a petition, that the Board of Indian Commissioners would investigate its administration and that of their courts, states that it is signed by a majority of the voters. Bribery and corruption of the president and council and of the courts are freely and openly charged and supported by affidavits. Agent Jewell has probably forwarded to the Bureau a statement of a flagrant instance of bribery which occurred within a few days after I left. In this case, the councilors were induced, as I am informed, to make a lease with a leading oil company when competent companies had offered much better terms, thus sacrificing the interests of the Seneca Nation to their venal impulses. The lease money for their village lots, a mere pittance of their real rental value, never reaches the pockets of the members of the tribe. Many of them think that these cheap leases have been secured by the white lessees bribing the councilors. The finances of the nation are administered by the president and council of sixteen, whose accounts are not published.

MARRIAGE RELATIONS.

Their laws are supposed to conform to those of the State; they are required not to conflict with those of the State or the United States. But as their public opinion favors the old custom of a loose marriage tie, the peacemakers' courts will not enforce marriage laws, and the utmost freedom still prevails. An instance occurred just before my visit in which a father took his young daughter from school wishing to marry her to a certain young man. She at first resisted, but was induced to yield, and lived with the man for about a month, at the end of which time she left him and went where she pleased. In this way the girls are frequently led astray at the very threshold of womanhood. It is the opinion, even of those who are apprehensive of the result of breaking up the old order of things, that this laxity will continue until they are brought under the restraint of the laws of the State.

THE ENGLISH LANGUAGE.

There is a studious effort, which is somewhat natural, so long as they are permitted to pose as a nation, to discourage the use of English and adhere to the Seneca language. In the councils which I held with the tribe an interpreter was considered indispensable so long as I spoke to them; but although I was told that most of my auditors understood English, and although I made strenuous efforts to induce them to interpret for my benefit, the whole discussion was conducted in the Seneca language and the debate was all Greek to me. This disposition tends much to retard their progress.

THE BEST COURSE.

Precisely what effect the division of their lands in severalty will have on the Ogden Land Company's claim, if these negotiations fail and the lands are allotted, is a debatable question. If it is possible to bring them to a successful issue, and I am desired to continue the effort, I am willing, after an interval, to make a further attempt. The division of the lands might at least force an issue in the courts, which would put the character of this claim to a direct test.

I am inclined to believe, in view of the uncertainty of being able to

bring the company to a reasonable settlement, it would be wise to proceed and begin the breaking up of the reservation. There is plenty of land to make each member of the tribe comfortable. This is shown by the fact that but a small part of it is under cultivation.

And yet it is the boast of their president that they all have homes, have no poorhouses, and are comfortable, while their country is overrun by white tramps.

Certain it is that there is a crying need for a remedy of some of the evils I have adverted to, while there seems little probability of their removal while this "nation" remains an "imperium in imperio."

Is it not time this preposterous relation was brought to an end by appropriate legislation?

I beg to commend these facts and inquiries to the notice of the Indian Bureau and the Department of the Interior, in order that Congress may be properly advised as to the right course to pursue, and remain,

Yours, respectfully,

PHILIP C. GARRETT,
Commissioner.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs.

PHILADELPHIA, December 4, 1896.

SIR: I have the honor to report the result of my negotiations with the Ogden Land Company (so called) and with the Seneca Nation of Indians in New York State under commission of your predecessor, dated April 18, 1895. These negotiations were "for the purchase of the interests said company may possess, if any, in the Cattaraugus and Alleghany Indian reservations in the State of New York," and with the Indians "as to the terms upon which they will consent to the United States purchasing the interest of said company in said reservations, if such interest is found to exist."

My instructions under this commission were not received until September, 1896, soon after which I placed myself in communication with the representative of the Ogden Land Company, and learned that he had given the refusal of this claim to Messrs. James L. Skillen and Charles A. Maxwell, lawyers, until the 5th of March, 1897. From them I learned that it was their purpose, should these negotiations fail, to try to secure from Congress the appropriation they desire, including their own profit and the cost of the effort. The trustee, Mr. Charles E. Appleby, had offered the claim recently for \$200,000, which is the sum, presumably, at which they have the refusal. After three interviews, I received the ultimatum of Messrs. Skillen & Maxwell, which was that they would sell their claim against any or all Indian reservations in New York State for the sum of \$270,345 and no less. I was afterwards informed by Mr. E. B. Vreeland, president of the bank at Salamanca, that the Ogden Land Company offered to sell the same claim about thirty years ago to citizens of Salamanca for \$50,000 and he had been told they had previously offered it for \$20,000 and even less.

I could not, under these circumstances, close with Messrs. Skillen & Maxwell's offer, especially as, by their own admission and upon the theory of the claim most favorable to them, i. e., that they are the owners of the fee to the lands, subject to a perpetual right of occupancy by the Indians, their claim has not and can not have any commercial value, because its occupation by the Indians for twenty years

would, at the rate of 5 per cent per annum, destroy the principal or its value, whereas the Indians have no intention of ever surrendering the lands, and may possess them for one thousand years.

After receiving the above ultimatum I proceeded to negotiate with the Indians, and held three councils with them, on the 26th and 28th of November and 1st instant, pleading with them that on the ground of expediency they should name a price and consent to a purchase, the funds to be taken from the sale of the leased lands in their villages, provided said sale reached \$1,000,000, or, failing that, from their claim on the Kansas lands, should an opinion in their favor be rendered by the Supreme Court.

This I urged, on the ground of the desirableness of setting this annoying claim at rest and releasing their lands from any cloud it may cast on their title. The Indians proved, however, to be inflexibly opposed to any recognition of the Ogden land claim, resting on their ancient inherited rights, and to my surprise, at the end of our meetings, voted almost unanimously against acceding to my propositions. The only affirmative conclusion they arrived at was to decline assenting to the purchase of the claim for \$270,000. An attempt was afterwards made at a meeting of the councilors, their governing body of sixteen headmen, to induce them to postpone the matter till spring and then reconsider it, but they were immovable.

I can not, under existing conditions, recommend the acceptance of the proposition of Messrs. Skillen & Maxwell. It would surely be a gross imposition on the Seneca Indians to charge it against any present or prospective funds of theirs. They have a quite intelligent understanding of the situation, and are willing to take all chances if Congress will only refuse to yield to the pressure of the claimants for the appropriation of the purchase money. The claim, although it may have a certain legal basis, has no appreciable value, as I have shown, for the owners had better take \$20,000 for it now than to wait fifty years, with the Indians in quiet possession, and take \$350,000. Besides, there is much doubt about the Ogden Land Company's theory of their claim, which has never yet been passed on in any direct issue before the Supreme Court.

Respectfully submitted.

PHILIP C. GARRETT,
Commissioner.

The SECRETARY OF THE INTERIOR.

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