48TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { Ex. Doc. No. 148.

MILLE LAC INDIAN RESERVATION IN MINNESOTA.

LETTER

FROM THE

ACTING SECRETARY OF THE INTERIOR,

TRANSMITTING

Report of the Commissioner of Indian Affairs relative to Mille Lac Reservation, in answer to resolution of the House of Representatives of March 21.

APRIL 29, 1884.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, April 28, 1884.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives of the 21st ultimo, of which the following is a copy:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to inform the House whether by any treaty or other act of the Government the lands of the reservation of the band of Chippewas of the Mississippi, known as the Mille Lac Indians, now and heretofore occupied by them, have been defined, and whether said Mille Lac Indians have, since the 20th day of March, 1865, done any act violating the provision in their behalf contained in the treaty ratified at said date between the United States and the "Chippewas of the Mississippi," and other bands of Chippewas, which provision is as follows: *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 in any way interfere with, or in any manner molest the persons or property of the whites; and that he also inform the House whether any of the lands heretofore recognized as within the limits of the reservation of said Mille Lac band of Indians have been sold or permitted to be entered, and if any part of the same has been sold or entered, that he inform the House in what manner, under what right, and to what extent the said reservation has been permittted to be entered, and whether such entries are legal and valid, and whether *bona fide* settlements have been made on the land entered, or had been prior to or at the time of the entry thereof.

The subject having been referred to the Commissioner of Indian Affairs and the Commissioner of the General Land Office, respectively, for such information as the files and records of their offices might contain touching the several matters of inquiry contained in said resolution, I respectfully transmit herewith a copy of the letter of reply of the Commissioner of Indian Affairs of 1st instant with its inclosures, and copy of letter of the 23d instant from the Commissioner of the General Land Office on the subject.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., April 1, 1884.

SIR: I have the honor to be in receipt by your reference, the 22d ultimo, of a resolution of the House of Representatives of the 21st ultimo calling for information regarding the status, &c., of the lands of the Mille Lac Indian Reservation in the State of Minnesota, as follows:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to inform the House whether by any treaty or other act of the Government, the limits of the reservation of the band of Chippewas of the Mississippi, known as the Mille Lac Indians, now and heretofore occupied by them, have been defined, and whether said Mille Lac Indians have since the 20th day of March, 1865, done any act violating the provision in their behalf, contained in the treaty ratified at said date between the United States and the "Chippewas of the Mississippi," and other bands of Chippewas, which provision is as follows: *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 in any way interfere with or in any manner molest the persons or property of the whites; and that he also inform the House whether any of the lands heretofore recognized as within the limits of the reservation of said Mille Lac band of Indians have been sold or permitted to be entered, and if any part of the same has been sold or entered, that he inform the House in what manner, under what right, and to what extent the said reservation has been permitted to be entered, and whether such entries are legal and valid, and whether *bona fide* settlements have been made on the land entered, or had been prior to or at the time of the entry thereof.

As the history of the reservation named in the resolution, and the views of this office respecting the status of the same are fully set out in a report submitted to the Department under date April 26, 1882, I inclose herewith a copy of said report, trusting that it will be acceptable as containing all the information called for that can be furnished from this office.

I understand that the question of the status of certain entries on the Mille Lac Reservation has quite recently been referred by the Department to the General Land Office for report, and I respectfully recommend that the resolution of the House be now referred to that office for the information therein called for, touching sales and entries of lands within the reservation.

It should be stated in this report that no complaint has been made to this office against the Mille Lac Indians since the rendition of my report of April 26, 1882. Therefore, in my view of the case, they have not forfeited their right of occupancy guaranteed to them by the treaty of May 7, 1864, confirmed by the President, March 20, 1865. (Stat. 13, p. 693.)

The views of the Department respecting the status of the Mille Lac lands are briefly stated in the reply made by the Department to my above-mentioned report.

It bears date May 10, 1882—copy herewith.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 26, 1882.

SIR: In reply to letter of your predecessor of the 5th instant, calling for such history of the Mille Lac Indian Reservation in the State of Minne-

sota, as shall give its present status and the condition of the Indians thereon, their rights in the lands embraced therein, as also the views of this office as to the disposal of said lands, and a citation of any pending legislation now under consideration regarding the same, I have the honor to submit the following statement of facts, with my views and recommendations thereon, which, it is respectfully suggested, may be considered also as a reply to Department reference of a "Statement of Mille Lac entries" (March 7, 1882), herewith returned.

The Mille Lac Indian Reservation in Minnesota, was created by treaty concluded February 22, 1855 (Stats., 10, 1165). It embraced three fractional townships and three small islands in the southern part of Mille Lac (Lake). It was set apart for the *permanent home* of the Mille Lac Chippewas, and to that end allotments in severalty and patents were expressly provided for in said treaty (article 11). However, on March 11, 1863, by another treaty with the various bands of Chippewas, (including the Mille Lac) said reservation, with five others established under the provisions of the first-mentioned treaty, was ceded by the Indians to the United States. (Stats. 12, p. 1249.)

In consideration of the above cessions, the United States agreed, among other things, to set apart, and did set apart, for the future homes of the Chippewas of the Mississippi other lands described in said treaty; to extend the annuities of said bands ten years beyond the periods mentioned in existing treaties; to pay certain sums of money for certain purposes therein mentioned; to clear, stump, grub, and break upon the reservation set apart for said Chippewas a certain number of acres for each of said bands, to build houses for their chiefs, and to furnish them with teams and farming utensils, &c., for the period of ten years.

By the terms of said treaty it is expressly provided (in the twelfth article), that—

> It shall not be obligatory upon the Indians, parties to this treaty, to remove from their present reservations until the United States shall have first complied with the stipulations of Articles IV and VI of this treaty, when the United States shall furnish them with all necessary transportation and subsistence to their new homes, and subsistence for six months thereafter; 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 in any way interfere with or in any manner molest the persons or property of the whites.*

(The stipulations of Articles IV and VI, referred to above, relate to clearing lands, building houses for chiefs, and removing saw-mill from Gull Lake Reservation. &c.)

On May 7, 1864, still another treaty was entered into (Stats. 13, p. 695), by which, in consideration of the cession aforesaid, other and additional lands were set apart for these bands of Chippewas, and the sums of money to be expended by the United States for the objects therein mentioned were *particularly stated.*

It must be admitted that the obligations of the United States have been fulfilled as regards the treaty aforesaid. The money required has been appropriated, and a full compliance with the terms of the treaty has been made or tendered by the Government. But as regards the Mille Lac band, the question arises: Have they ever forfeited their right of occupancy as guaranteed to them by the twelfth article of the said treaty?

Interference in any way with, or molestation in any manner of the *persons or property of the whites* would, it is presumed, constitute a forfeiture of such right.

The precise language of the article has just been stated. By its terms

the Indians of the several ceded reservations were not to be obliged to remove from the reservations then occupied by them "until" certain conditions, as set out in Articles IV and VI had been complied with on the part of the Government, "when" it was agreed the United States would furnish them the *means of transportation* and subsistence to their new homes. But, it was provided, in the case of those with whom we are now more especially concerned—

> 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 in any way interfere with, or in any manner molest the persons or property of the whites.

Here was a special provision in the nature of and intended as a separate and additional immunity or franchise, conferred evidently for some signal good conduct on the part of this particular band of the Chippewas—the Mille Lacs. The other bands were to remove as soon as the Government had fulfilled certain promises (analagous to the case of a merchant who agrees to deliver merchandise *when paid for*). They had *ceded their lands* for a valuable consideration and agreed to vacate upon compliance with the terms of cession. So the Mille Lacs had ceded the title to their lands, but their removal therefrom was not required, as in the case of the others, but was made dependent upon their continued good conduct.

At the time of the outbreak of the Chippewas, in 1862, under the famous chief "Hole-in-the-Day," resulting from the efforts of Southern secession agents operating through Canadian Indians and fur traders, when the devastation of the whole country there was threatened, and the massacre of the entire population, the Mille Lac bands being urged to join with Hole in-the-Day, *positively refused*, and not only remained loyal to the Government, but assisted so far as they found it within their power to prevent a general Indian war. This, it is understood, was the "good conduct" for which they were to be remembered. Not only were they to receive their share of the pecuniary and other common benefits, but "so long as they shall not in any way interfere with or in any manner molest the persons or property of the whites" they were not to be "compelled to remove" from their reservation.

The questions that naturally arise, then, are, "Who were the whites to whom reference was intended," and "what would constitute interference with or molestation of the persons or property of the whites?"

Manifestly, I think, reference was intended to the white settlers occupying the surrounding country, their neighbors especially, for there could have been no whites lawfully living upon the reservation at that time, and it was hardly intended in anticipation of the entry and settlement of whites upon the reservation, and with a view to their protection; for the Indians being in occupation, the introduction of whites into their midst would unquestionably result in conflict at once; indeed it is not difficult to see that such common occupancy by Indians and whites would be quite impossible. The Indians were there, and until they were removed either by their own consent or by reason of the forfeiture of their right of occupancy the whites manifestly must keep out.

It does not matter that the lands embraced within the reservation were surveyed and plats filed with the local land officers, as in the case of other public lands; the rights of the Indians could not be affected thereby. The public surveys were extended over the Mille Lac Reservation—T. 43 N., R. 27 W., in 1865, and T. 42 N., R. 25, 26, and 27 W., in 1870—and in this connection I will state that as soon as it became known, through their agent, that such surveys had been completed,

this office, seeing the impropriety of permitting white settlers to go upon the reservation while the Indians were still in occupation, at once addressed a communication to the Department (August 22, 1871), requesting that no part of said reservation should be considered as subject to entry or sale as public lands, and that the local land officers for the district embracing said reserve be notified accordingly. Whereupon (September 1, 1871) the General Land Office instructed the local land officers at Taylor's Falls, Minn., to give public notice that settlements on the Mille Lac Reservation were illegal and would not be recognized, &c., and on September 11, immediately following, request having been made to that end, the honorable Attorney-General informed the Department that he had instructed the United States district attorney to prosecute trespassers on the Mille Lac Reservation. Furthermore, on September 21 following, the General Land Office preferred a request to the governor of Minnesota to execute a relinquishment of the State's claim to certain tracts lying within the reservation that had been patented to the State as swamp lands on the 13th of May, previous (1871). I am informally advised by the General Land Office that the relinquishment asked for has not, however, been obtained.

Settlers were at once moved off the reservation by Agent Smith, who made report to this bureau under date of November 13, 1871, as follows:

Upon the representations of Ira H. Pierce, attorney for a certain number of these settlers, that a large number of these settlers had gone upon the reservation in good faith for the purpose of making homes, and that by my notice of warning they had been compelled to leave their homes and crops, and were now waiting outside the lines of the reserve (some of them in poverty and suffering), I was induced to call a council of the Mille Lac Indians, at which, Mr. Pierce being present, I told them the condition of the settlers and explained to them as well as I could, the mistake under which settlements had been allowed upon their lands, and asked that they would relinquish to their Great Father the right of occupancy in *one township* for these settlers. The Indians doubted the facts, that any such settlers were or had been on the reservation. They said that parties had only come to *cut timber* and put up a few log shanties, *which could not be intended for homes;* that they had not seen any families upon the reservation, but if on examination I found settlers had come on by mistake, and were suffering by being driven off, they would consent to relinquish their right of occupancy to one township, *provided it did not in any way necessitate their removal from the reservation.* On these conditions they were willing to leave the adjustment of the case with me.

On my return to Saint Paul I found it impossible to determine the exact state of the case without going upon the reservation, and have just returned from a tour of inspection in company with J. F. Stoek, special agent, sent by Commissioner Drummond to investigate the facts of the Mille Lac Reservation.

We made diligent inquiry of all parties on the way and of the Indians and lumbermen in the vicinity, and visited some fifteen claims upon the reserve, and examined the improvements made. Our observations led to the following conclusions as to the facts in the case:

1. A large part of the three fractional townships that constitute the Mille Lac Reserve has been entered either by half-breed scrip or pre-emption claims.

2. In all cases the claims selected are upon the *pine lands,* in preference to the hardwood lands which are better adapted to agriculture.

3. Nearly all the half-breed scrip by reference to the report lately made by the commissioner will be found to have been fraudulently obtained.

4. The entries by pre-emption *have been largely made by parties who were employed and paid by the day and sent up in gangs of from six to thirty-five men to make improvements, prove up at the land office, and then transfer* their titles to their employers.

Mr. Stoek has reported specifically upon some of these facts, giving dates and names and numbers of the parties thus employed, and also giving descriptions of the actual improvements found upon a large number of their claims verified by the affidavits of three citizens of Princeton.

I respectfully refer to the statement and affidavits of that report as furnishing the basis, together with my personal observations, for the decision which I have reached, viz, that the entries on the reserve have been made for the purpose of securing the pine timber and not for making actual settlement. I therefore respectfully request that no trespassing be permitted upon the reservation, and that the entries already allowed at Taylor's Falls be canceled.

In returning to the consideration of the question, who were "the whites" to whom reference was intended in twelfth article, and what would constitute *interference* with, or *molestation* of, their persons or property:

If it be conceded that the white settlers occupying the country surrounding or adjacent to the reservation were the object of the intended protection (which is clear to my mind) then it would certainly be unnecessary to discuss the question as to what would constitute interference with or molestation of the persons or property of such. If, on the other hand, it be denied and contended, as it is by some, that the word "whites" was employed in anticipation of the speedy settlement of whites upon these lands, who would bring with them their property and effects, and with a view to the protection of such persons in their persons and property, then it is important to know what was meant by the language "any way interfere with, or in any manner molest the persons or property" (of whites).

For the sake of the argument, let us suppose that the language of the proviso was intended to apply to settlers coming upon the reservation. Then the Indians, if they would not work a forfeiture of their right of occupancy, must not *interfere* with or *molest* either the *persons* or *property* of such. Surely nothing more. It does not provide that they shall make way for or vacate or abandon any improvements or shelter they have or land to these people. It is only required that they shall not *interfere with* or *molest* either their *persons* or *property*. These words (interfere and molest) when employed in such connection, in respect of the conduct or action of Indians, are, I think, to be interpreted in their *worst sense*. And when it is remembered that only a few months before the treaty was made, the whole country there had been thrown into a state of the greatest alarm on account of the uprising of the Indians of that section, it is clear to my mind that the framers of the treaty intended that they should be interpreted in no other way.

In examining the evidence we have as showing what the conduct of these Indians has been during the past ten or twelve years, we shall see not only that their agents and the citizens of the neighboring country as well, claimed for the Indians the right of occupancy during good behavior, but that the people residing in the section of country contiguous to the reservation (presumably as much interested in getting rid of the Indians as anybody) acknowledged and believed that nothing short of interference with or molestation of the persons or property of themselves or others outside the limits of the reservation would constitute a rightful forfeiture of such right.

Let us look at the evidence we have in the premises. In his annual report for 1870, Lieut. George Atcheson, of the Army, says:

> In the month of February last certain accusations were made against the Mille Lac band of Chippewas by white settlers residing contiguous to the ceded reservation upon which this band is yet allowed to remain; complaints alleging their roving propensities, drunkenness, and general misconduct, detrimental to themselves and annoying to the whites, who, for this reason, desired their removal. In compliance with instructions from the Department, I investigated the subject and found that these complaints of general misconduct were not without foundation, but in no case was evidence produced to show actual interference with or molestation of the persons or property of the whites, which alone, under the treaty, would be just cause of their removal. In accordance with this showing I made report to the Department.

(An examination of the report referred to shows it to be of above tenor.)

Agent (afterwards Commissioner of Indian Affairs) E. P. Smith, in his annual report for 1871, being then in charge of the Chippewa Agency, says:

The Mille Lac bands of Mississippi Chippewas still reside on their original reservation, the title to which they ceded in 1863, reserving the right of occupancy during good conduct towards the whites. There have been, from time to time, individual complaints against them for trespassing in the adjoining country. For the most part this trespass has been a violation of the game laws of the State. Unfortunately for these Indians, their reservation is rich in pine lands, which makes them the prey of lumber dealers, and a strong pressure is kept up on all sides to secure their early removal.

In his report for the following year (1872) Agent Smith stated:

Of the Mille Lac band of the Mississippi Chippewas, only about twenty-five have been persuaded as yet to remove to White Earth.

In 1873, Agent Douglass being in charge of the agency, in his annual report, says:

Nothing whatever is being done to improve the condition of that portion of the Mille Lac Indians still residing in the vicinity of the lake bearing that name. No class of Indians under my charge appear more manly and noble than these, and I am profoundly impressed with the moral obligation of the Government to adopt immediate measures for their education and civilization. They hold their present territory by the most feeble tenure.

The Commissioner of Indian Affairs (Hon. E. P. Smith), in his report for 1874, says:

The Mille Lacs are located around a lake of the same name, on land ceded in 1863, reserving the right of occupation during good behavior. Nothing has been done for them beyond the payment of their annuities, in cash and goods, which payment is in itself a source of demoralization, leading directly to indolence and intoxication. Nothing can be done for them until they are removed to White Earth, or until the fee of the Mille Lac is restored to them. * * * All efforts to induce them to remove to White Earth have as yet been of no avail.

Agent C. A. Ruffee, late agent for the Chippewas, in his annual report for 1878, says:

The larger proportion of the Mississippi bands still remaining on the White Oak Point Reservation and at Mille Lac are in a deplorable condition, and subjects of annoyance to the white people surrounding them.

And in his report for the year following (1879) he says, speaking of the Mille Lacs:

Those residing at Mille Lac should be removed as speedily as possible without an infraction of existing treaties.

This brings us down to 1880. On May 26, 1880, this office, by Department reference of the 25th same month, received a petition numerously signed by citizens of Morrison County, Minnesota (a county bordering on the Mille Lac Reservation), commending the Mille Lac Indians in the highest terms for their uniform good conduct, and appealing for protection in their behalf in the matter of their reservation lands. The petitioners deny that the Indians have ever committed depredations upon the whites; on the contrary, they protest that they are a peaceable, inoffensive people, and that the charges that have been made against them are unjust, and have been instigated by designing people, who wish to secure the valuable timber with which their reservation abounds.

Of the character and standing of the petitioners I am not informed.

Thus it would appear from the above evidence, if the grounds I have taken are correct, that these people have never violated the conditions upon which their continued occupancy of the lands in question solely depends. That their position, however, since the cession of their reservation in 1863, has been an anomalous one is manifest; and it may be stated that it has been a matter of concern not only to the Indians, but to this Bureau as well. The feeble tenure by which they have held their

lands has been a great obstacle to their advancement, and but little has been done for their improvement. The attention of the Department and of Congress has from time to time been called to their condition with a view to securing their removal, or in case of their remaining where they are now, such legislation as shall secure to them a proper share of the reservation in severalty. A bill was prepared in this office and presented to the last Congress (S. 1630, Forty-sixth Congress, second session) authorizing negotiations with these Indians, as well as numerous other bands, for their removal to and consolidation with the Indians residing upon White Earth Reservation. It never, however, became a law.

To allow this condition of things to continue is in the highest degree demoralizing to these Indians. Either they should be removed (with their consent) or, lastly, lands in severalty should be allotted to them where they are at the earliest practicable moment. They have ever manifested the strongest objection to removal, and it is not known whether their free consent could be obtained to quit their old homes for the White Earth or any other reservation. Possibly a liberal reward would induce them to yield, and the effort should be made. Their present reservation, being rich in pine lands, is the envy of the lumber men, and as long as the Indians occupy their present anomalous position with respect to these lands the pressure for their removal will continue, and it is to be feared that the evil influences that have heretofore been brought to bear upon them to effect a forfeiture of their rights will also continue, until they are reduced to a state of utter depravity and helplessness.

In a letter to the Commissioner of the General Land Office, dated March 1, 1877, I find that the then Secretary of the Interior (Hon. Z. Chandler) decided, in the case of the appeal of Frank W. Folsom from the decision of the said Commissioner of May 27, 1876, affirming the action of the register and receiver in rejecting his D. S. dated May 1, 1876, for the SE. ¼ of NW. ¼ and lots 1, 2, and 3 of Section 6, T. 43, R. 27, Taylor's Falls land district, Minnesota, that the Indians occupying the reservation in question have not an exclusive right to the lands, but that, on the contrary, they are subject to sale and disposal by the United States. He says:

> Under this proviso [referring to proviso of the twelfth article of the treaty of 1863] it is true that so long as said Indians do not interfere with the persons or property of the whites they cannot be compelled to remove, but it by no means gives them an exclusive right to the lands, nor does it, in my judgment, exclude said lands from sale and disposal by the United States.
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> It was anticipated, evidently, that these lands would be settled upon by white persons; that they would take with them their property and effects; and it was provided that so long as the Indians did not interfere with such white persons or their property they might remain, not because they had any right to the lands, but simply as a matter of favor.
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> In this view of the case, and I am satisfied that this is the proper construction of said proviso, said lands are now, and were at the time Folsom offered to file his D. S., subject to pre-emption filing and entry.

However, in view of the fact that the Indians were in occupation of the lands, and that there were no funds available for their removal to the White Earth Reservation, the Secretary directed the suspension of the execution of the decision above quoted, and directed the Commissioner of the General Land Office to instruct the local officers to allow no filings or entries upon any of said lands included in the Mille Lac Reservation "until the close of the next regular session of Congress (Forty-fifth Congress), unless said Indians shall voluntarily remove

therefrom prior to that date;" and he further directed "that in the mean time all existing claims on any of said lands, if any there be, remain *in statu quo*."

It appears that at the expiration of the limit of time placed by Secretary Chandler, Folsom's entry was allowed, and in due time patent was issued for the tract entered. The local land officers also allowed entries to the extent of over 23,000 acres, which were subsequently canceled by direction of Secretary Schurz of May 19, 1879.

I inclose herewith a copy of a letter from the Commissioner of the General Land Office, dated December 30, 1881, by which it will be seen that all additional homestead entries, locations under Chippewa treaty of May 7, 1864, and pre-emption entries made from time to time for lands embraced within the Mille Lac Reservation have been canceled, save such few as are therein indicated and described. The correspondence in respect of these entries (including Department decisions and instructions) which has been somewhat extended, has been had with the General Land Office, of which no information is afforded from the records of this office.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., December 30, 1881.

Hon. H. PRICE,
Commissioner of Indian Affairs:

SIR: In reply to your letter L of the 10th instant, I have the honor to furnish the following statement respecting entries appearing upon the records of this office for lands within the Mille Lac Indian Reservation in Minnesota:

The SE. ¼ NW. ¼ and lots 1, 2, and 3 of Sec. 6, Town. 43, Range 27, entered by Frank W. Folsom, per Taylor's Falls, cash entry No. 6736, and patented September 10,1880.

Fractional sections 16, 21, and 22, lots 1 and 2, Sec. 27, N. ½ NE. ¼ and N. ½ NW. ¼ Sec. 28, 43, 27, selected January 14, 1867, under first article of Chippewa treaty of May 7, 1864, for Shaw-bosh-Kung, and approved by honorable Secretary of the Interior January 17, 1867.

The SW. ¼ NW. ¼ and lot 5, Sec. 27, SE. ¼ NE. and lot 1, Sec. 28, 43, 27, embraced in Saint Cloud homestead entry No. 6239, final certificate No. 4574, in name of Sharvash King, at present under consideration by this office.

Lot 7, Sec. 18, and SE. ¼ NE. ¼ 20, 43, 27, claimed by the State of Minnesota as swamp land.

Lots 2 and 3, Sec. 18; lot 4, Sec. 21; NE. ¼ NW. ¼ SW. ¼ SW. ¼ and lot 4, Sec. 28; SW. ¼ NW. ¼ Sec. 29; E. ½ SW. ¼, W. ½ SE. ¼ Sec. 30; NE. ¼ NW. ¼ and NE. ¼ Sec. 31; NE. ¼ NE. ¼ and SE. ¼ SE. ¼ Sec. 32, and NW. ¼ NW. ¼ 33, 43, 27 were patented to the State of Minnesota under swamp land acts May 13, 1871.

Many additional homestead entries under act of June 8, 1872, locations under Chippewa treaty of May 7, 1864, and pre-emption entries have been made from time to time for other portions of the land embraced in the reservation named, but all have been canceled save the entries, locations, and selections above described.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

However, it is understood that the status of all these entries remains unchanged since the date of the General Land Office letter above referred to.

The Indians have continued in occupation of the reservation since the cession of 1863, nearly twenty years. The Department has seen the importance of protecting them in their right of occupancy, as guaranteed to them by said treaty, and to that end has refused to allow settlements to be made in their midst. Undoubtedly it has been hoped and expected that the Indians would in time yield to the pressure for their removal and take homes upon the White Earth. Appropriations have been made from time to time (as has been stated) for their removal (Stats., vol. 13, pp. 560, 561; vol. 15, p. 204; vol. 17, p. 189), but only a few have been persuaded to remove. As a band they have ever manifested the strongest desire to remain where they are. It is known that

the deplorable condition into which they have fallen is attributable largely to the uncertainty which has been felt as regards the tenure by which they hold their lands. Nothing could be done or can be done toward opening farms and establishing them in the pursuits of agricultural life so long as this uncertainty continues. The strong pressure from the outside has, no doubt, increased their opposition to removal, and it would seem that their chief ambition and effort has been simply to avoid a forfeiture of their rights by any overt act.

In conclusion I will state that it is not claimed by this Bureau that the Indians have any title or fee in the lands, nor am I prepared to say that the lands are, by the terms of the treaty, excluded from sale and disposal by the United States; but it is clear to my mind that the Government is bound to protect the Indians in the continued occupancy thereof, so long as they shall refuse to remove therefrom, unless they shall work a forfeiture of their right by reason of future misconduct.

Clearly this condition of affairs should not be allowed to continue, and steps should be taken to remedy the evil without further delay.

A bill is now pending before Congress which provides for the removal and consolidation of the various bands of Chippewas in Minnesota upon the White Earth Reservation. The Mille Lac Indians are included, and for the purposes of the act their reservation is declared to belong to them. (H. R. 3862, Forty-seventh Congress, first session.)

The bill provides, among numerous things, that any Indian twenty-one years of age, having valuable improvements upon any of the reservations vacated under the act, may, under certain conditions, select 160 acres for himself and receive patent therefor. The proceeds of the sale of the several reservations, after payment of expenses of survey, appraisement, &c., is, by the terms of the bill, to be placed in the Treasury for the benefit of the Indians so removed and consolidated upon the White Earth.

It is very doubtful, however, if this bill will become a law at the present session of Congress, and as I think it important that an early adjustment of the case be had, I would respectfully suggest whether it would not be well to ask Congress (by special bill) for authority to negotiate with these Indians for the relinquishment of their right of occupancy to the lands in question and for their removal to White Earth, for a specified sum of money.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, May 10, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th of April concerning the Mille Lac Reservation in the State of Minnesota. I have carefully considered the same, and after an examination of the statutes cited and the action of my predecessors, Hon. Z. Chandler and Hon. Carl Schurz, I feel constrained to substantially adhere to the decision made by Mr. Chandler. I do not think there can be any controversy as to the status of the Indians on that reservation. The twelfth article of the treaty of 1863 provides as follows:

It shall not be obligatory upon the Indians, parties to this treaty, to remove from their present reservations until "the United States shall have first complied with the

stipulations of articles 4 and 6 of this treaty, when the United States shall furnish them with all necessary transportation and subsistence to their new homes, and subsistence for six months thereafter: *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 in any way interfere with or in any manner molest the persons or property of the whites.

This proviso gave to this band of Indians the right to remain on the reservation until they should voluntarily remove therefrom. At the time of the making of the treaty there was a large number of other Indians who either resided on the reservation or had the right to do so, who were to be removed; but, owing to the good conduct of these Indians, they were not compelled like their brothers to go to the White Earth Reservation. It has been insisted that the proviso allowing the Mille Lac Indians to remain gave them the exclusive permission to occupy the entire reservation to the exclusion of white settlers.

By the treaty of February 22, 1855, it was provided in article 2 that the President might at any time he considered it advisable assign to each head of a family, or singly, 80 acres of land for his or their separate use. It does not appear that this was done, and it is to be presumed that whatever portion of the Mille Lac Reservation was occupied by the Mille Lac Indians at the time of the making of the treaty of 1863 was occupied in common and not held in severalty. Whatever title they had passed by this treaty to the United States, nothing remained in the Indians; but the Government saw fit to say that they need not remove therefrom until they were ready to do so. It was undoubtedly understood by the Government and the Indians that the Indians would ultimately remove therefrom to White Earth, as provided in the treaty, but they have refused to do so and still refuse.

The interests of the Indians undoubtedly require their removal; but this cannot be done by the Department except with their consent, unless the Indians by disturbing the whites have forfeited their right to remain. It is alleged that they have forfeited their right; this, however, has been denied. No provision is made in the treaty for determining a controversy on this point, and it ought not to be adjudged against the Indians except on the clearest proof. This does not appear to exist, and therefore it must be presumed that the Indians are rightfully on the reservation and entitled to the protection of the Government in all that was given them by the proviso in article 12.

The question is whether they may occupy the whole reservation or only the part that is necessary to make good the promise of the proviso of section 12. It is not claimed that they originally occupied the entire reservation, or that it is now necessary to exclude white settlers therefrom to keep in good faith the treaty with them. I conclude that whatever they actually occupied in 1863 they are entitled now to occupy; if they have increased the area of their occupation they are entitled to that, if such occupation was prior to the occupancy by white people.

The reservation was public land open to homestead and pre-emption claims, subject only to the rights of the Indians to reside thereon and not to remove therefrom until they wish so to do. Good faith required the Government to reserve for them as much land as they needed. This could not be more fairly determined than by conceding to them all they had previously occupied. I understand the number of Indians on that reservation is about five hundred, while the reservation contains seven townships and three small islands. You will therefore ascertain as soon as practicable the quantity of land heretofore occupied by the Indians, as well as the quantity necessary for their support (if the quantity now

occupied is insufficient) and report the same to this office, in order that such land may be reserved from the operation of the homestead and pre-emption laws, so that the remainder of the reservation may be occupied by the settlers who have in good faith attempted settlement thereon.

If you think it desirable I will send an inspector there to examine and report on the area now occupied by the Indians, or you may ascertain the fact through your own agencies, as you prefer.

Very respectfully,

H. M. TELLER,
Secretary.

Hon. HIRAM PRICE,
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 25, 1884.

SIR: I am in receipt, by reference from the Department of the 2d instant, of a resolution of the House of Representatives of March 21, 1884, directing you to inform the House—

Whether any of the lands heretofore recognized as within the limits of the reservation of said Mille Lac band of Indians have been sold or permitted to be entered, and if any part of the same has been sold or entered that he [you] inform the House in what manner, under what right, and to what extent the said reservation has been permitted to be entered, and whether such entries are legal and valid, and whether *bona fide* settlements have been made on the land entered, or had been prior to or at the time of the entry thereof.

In response to your call for a report on the foregoing clause of the resolution, I have the honor to submit the following: By article 2 of the treaty of February 22, 1855, between the United States and the Mississippi bands of Chippewa Indians (Stats. at Large, vol. 10, p. 1165), the Mille Lac Indian Reservation embraces, or embraced, the following described fractional townships in Minnesota, namely, "42 N. of R. 25 W.; 42 N. of R. 26 W.; and 42 and 43 N. of R. 27 W.; and also the three islands in the southern part of Mille Lac." The aforesaid townships cover an area of 60,793.64 acres.

It appears from our records and files that at the request of the Commissioner of Indian Affairs, contained in a letter of August 22, 1871, this office, September 1, 1871, addressed a letter to the register and receiver at Taylor's Falls, Minn., forbidding them to allow any filings or entries to be made within the limits of that reservation.

In April, 1871, fifty-seven pieces of Chippewa half-breed scrip were located upon tracts to the extent of 4,609.98 acres within said reservation, and in June, July, and August of the same year six pre-emption cash entries, covering 709.60 acres, were made, and thirty-five pre-emption claims, covering 5,706.84 acres, were perfected by being paid for with agricultural college scrip. There were also one hundred and seventeen declaratory statements filed covering several thousand acres of said land. It appears that on the 17th and 20th of June, 1871, the Department ordered the suspension of all entries made under article 10 of the treaty of September 30, 1854, with the Chippewa Indians of Lake Superior and the Mississippi (10 Stats., p. 1109), and article 6 of the treaty of February 22, 1855 (10 Stats., p. 1165), and directed this office to advise the local officers to refuse all applications to enter lands under the provisions of either of said articles of treaty stipulations until further in-

structed. The local officers appear to have been advised of such order by letter addressed them September 20, 1871. By letter addressed said officers September 23, 1871, wherein reference was made to prior letters on the subject, they were directed to carry out instructions of September 1, 1871, relative to notifying parties who had made entries within the reservation that they were invalid and would be canceled. By letter addressed the Taylor's Falls office January 24, 1872, wherein reference was made to letter of September 23, 1871, all entries and locations on said reservation were declared canceled, and the officers were directed to note the cancelation upon their records and notify the parties of such action. By letter of January 30, 1872, wherein reference was made to letter of 24th of same month, abstracts of land entered, located, and filed upon within the limits of said reservation were sent said officers, as follows: (1) Locations with Chippewa half-breed scrip; (2) location with agricultural college scrip; (3) homestead entries and cash; (4) declaratory statements; and said officers were directed to notify those who made cash entries to make the usual application for repayment of purchase money; to notify homestead claimants that they would be allowed to make new entries with the fees and commissions on the one canceled standing to their credit. The agricultural college scrip was returned them with instructions to deliver it to the rightful owners upon surrender of the duplicate certificates of location. Regarding the Chippewa scrip they were advised that the same would be retained on the files of this office, subject to the order of the honorable Secretary dated April 20, 1870.

Subsequently a number of applications to acquire title to tracts within said reservation were brought before this office, on appeal from the action of the district officers rejecting the same pursuant to the instructions referred to of date September 1, 1871, and one case, that of Frank W. Folsom, representing the points involved, was submitted to the Secretary on appeal with letter of this office of October 31, 1876. Your predecessor, the late Hon. Z. Chandler, by letter of March 1, 1877, reversed the decision rendered by this office adverse to the claimant, but directed, for reasons given, that the execution of his decision in favor of said Folsom should be suspended, and that the district officers should be ordered to allow no filings or entries upon any of said lands until the close of the next regular session of Congress, unless the Indians should voluntarily remove therefrom. He further directed that in the mean time all existing claims for any of said lands, if any there were, should remain *in statu quo*. This order was communicated by letter from this office of March 15, 1877, to the district land officers at Taylor's Falls in whose district the Folsom case arose.

Thus the matter remained, no entries or filings having been admitted by the district officers, said officers acting under the order above referred to, forbidding it, until June 19, 1878, when by letter of that date your predecessor, the Hon. Carl Schurz, directed this office to notify, by telegraph, the proper local officers to allow no filings or entries upon any of said lands until further orders from the Department. The local officers at Taylor's Falls and Saint Cloud were notified accordingly on the same day, June 19, 1878, and the receipts of the telegrams were acknowledged on the 19th and 20th of the same month. On the 21st June, 1878, Mr. Schurz addressed this office another letter, in which, after referring to the history and then condition of the matter, he said:

> I have, therefore, to direct that all claims on any of said lands, if any there be, subject to entry, shall remain *in statu quo*.

He therein directed this office to "order the local land officers to allow no filings or entries upon any of said lands included in the Mille Lac Reservation; this order to be and remain in full force and effect until the result of the action of Congress in relation to the right of the Indians in question to occupy the tract of country known as the Mille Lac Reservation, situated in the State of Minnesota, shall have been determined." Copies of said letter were sent to the district land officers affected by the order, with letters of this office of the 28th of June, 1878.

By returns for the month of March, 1879, from the district land office at Taylor's Falls, Minn., it was found that notwithstanding the repeated inhibitions referred to, and without any change in the incumbents of the district office since 1876, soldiers' additional homestead entries had been allowed within the limits of said reservation to the extent of 23,913.46 acres. This fact was shown by the register's abstract of homestead entries for that month. My predecessor, on the 17th of May, 1879, addressed Mr. Schurz a letter on the subject, and therein expressed the opinion that the entries referred to, having been allowed in contravention of the specific order of the Department, given with a view to afford opportunity for the adjustment of the rights of the Indians in the reservation, were invalid, and stated that if it met the Secretary's approval they would be at once canceled by this office and the parties advised. On the 19th May, 1879, Mr. Schurz concurred in the opinion of my predecessor and directed the cancelation of the entries referred to in letter of this office of the 17th of the same month and the entries were thereupon canceled by letter addressed to the local officers at Taylor's Falls, May 21, 1879. The entries thus canceled were 285 in number, being soldiers' additional homestead entries numbered from 2551 to 2835, inclusive, all made March 12, 1879, embracing in area 23,000 acres, or thereabouts, of lands within said reservation. The register and receiver of the Taylor's Falls office reported, May 29, 1879, that the instructions of the 21st of the same month had been complied with, and in defense of their action gave reasons under three headings for allowing the entries, briefly as follows:

(1.) The decision of Hon. Z. Chandler of March 1, 1877, holding that said lands belonged to the United States and were subject to entry by pre-emption, and of course by homestead, as they were surveyed lands and the plats filed in their office several years before. But for certain prudential reasons named in the decision, Mr. Chandler directed that no disposal be made of the lands and that they remain *in statu quo*, not indefinitely as intimated in letter of this office of May 21, 1879, but "*until the close of the next session of Congress.*" That this of course referred to the close of the first session of the Forty-fifth Congress, which took place on or about June 20, 1878.

(2.) That Mr. Schurz, then Secretary of the Interior, must certainly have felt that they were authorized to allow entries after the close of the above-named session, as otherwise he would not have directed this office on the 19th June, 1878, to telegraph them *not* to allow any entries under the Chandler decision until further orders, which orders they received dated June 28, 1878. That said orders did not in the least particular revoke Secretary Chandler's decision in regard to the status of the lands, but simply forbid the allowance of entries until Congress could have an opportunity of acting upon a certain bill and a certain resolution then in the hands of the Committee on Indian Affairs of the House of Representatives. That the point they make is this:

The Secretary, it is true, did not state *what* Congress he wished to act upon these measures, whether the Forty-fifth or some subsequent Congress, but as he referred to

certain living measures then before the Forty-fifth Congress, which, if not acted upon by that Congress, would die with it, the natural and legal construction of his order was that he referred solely to that then existing body.

(3.) The Congress before which these measures were pending at the time of the order having expired by limitation of law on March 3, 1879, and no action having been taken upon them—not even a report from the committee, from all they could learn after diligent inquiry—of course the bill and resolution died with the Congress, and so also, in their opinion, died the honorable Secretary's order. That, consequently, after awaiting further orders until March 12, 1879, and not receiving any, they felt they could not legally and in the discharge of their duty deprive the applicants, whose applications had been pending for nearly four years for the lands, of their rights any longer. Hence they fell back upon Secretary Chandler's decision and allowed the entries.

They made report in the same letter that the parties in interest requested them to state that in due time an appeal would be taken to the courts from the action aforesaid, canceling the entries.

Notice of appeal from the action of this office of May 21, 1879, canceling said additional homestead entries was filed July 19, 1879, by Messrs. Curtis, Earl & Burdett, of this city. This notice embraced all said soldiers' additional homestead entries, two hundred and eighty-five in number.

On the 4th of August, 1882, Messrs. Curtis & Burdett addressed this office a letter, inclosing therein a list of soldiers' additional homestead entries made at Taylor's Falls, Minn., and stated that said entries were made in conformity with Mr. Secretary Chandler's decision, but subsequently canceled by order of Mr. Secretary Schurz for supposed interference with the late Mille Lac Indian Reservation. That in such cancellation the parties in interest had never acquiesced, but had at all times asserted their right to have their entries restored and patented. They further stated that, your attention having been called to the matter, you, on May 10, 1882, rendered a decision respecting the status of the lands, whereby the former decision of Secretary Chandler was reaffirmed and the lands declared to be subject to entry. They filed a copy of your said decision of May 10, 1882, addressed the honorable Commissioner of Indian Affairs, and in view thereof asked that the entries referred to be reinstated on the record, and that each case be examined and decided upon its merits, &c. I had the honor to call your attention to the matter in a letter in words and figures as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., August 7, 1882.

SIR: I have been furnished, unofficially, with a copy of your letter of May 10, 1882, addressed to the Commissioner of Indian Affairs, relative to the status of the Mille Lac Indian Reservation, in the State of Minnesota.

You express the opinion that the Indians have not forfeited the right secured to them by the twelfth article of the treaty of 1863 to remain on the ceded lands on certain conditions, and that good faith required the Government to reserve for them as much land as they needed for their support, but that in view of the number of Indians now occupying the reservation the whole of the land is not necessary for such purpose; and you directed the Commissioner of Indian Affairs to ascertain the quantity of land actually occupied by the Indians heretofore, as well as the quantity necessary for their support (if the quantity now occupied is insufficient), and to report the same to you, in order that such land may be reserved from the operations of the homestead and pre-emption laws, so that the remainder of the reservation may be occupied by the settlers who have in good faith attempted settlement thereon.

I should understand from your instructions to the Commissioner of Indian Affairs that the reservation which by the recognition and acts of the executive department of the Government has been heretofore maintained for the occupation of these Indians in accordance with the treaty stipulation is to be reduced to the reasonable quantity

needed for their support, and that the remainder of the lands (not so needed for Indian occupation) are to be opened to entry under the homestead and pre-emption laws.

Messrs. Curtis & Burdett, attorneys, representing a large number of soldiers' additional homestead entries, heretofore attempted to be made on these lands, but which were canceled by order of your predecessor, for the reason that the land being in a reserved condition was not legally subject to entry during the continuance of such reservation, have applied for a reinstatement of said entries, claiming that under your instructions to the Commissioner of Indian Affairs these entries should be considered as having been legally made at the respective dates thereof, in order that the same may be protected against any subsequent claims upon the same lands that may hereafter be presented.

I do not understand your letter to the Commissioner of Indian Affairs as authorizing me to take the action desired by Messrs. Curtis & Burdett, nor as determinative of the several questions which their application presents; neither is it my understanding that the report upon the examination required by you to be made of these lands has yet been submitted for your action and instructions thereunder. In the absence of such instructions I should not feel at liberty to take any steps relative to this application or in any other respect relative to said lands.

But I am requested by Messrs. Curtis & Burdett (who state that they have had a personal interview with you upon the subject) to submit their application to you for any consideration and instruction you may deem proper in the premises. Said application is accordingly herewith transmitted.

Very respectfully,

N. C. McFARLAND,
Commissioner.

Hon. H. M. TELLER,
Secretary of the Interior.

Said letter was returned me with your indorsement, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., August 7, 1882.

I want all the entries heretofore canceled in the so-called Mille Lac Reservation reinstated for an examination as to their *bona fide* character, for if made in good faith the canceling of such entries was without authority of law, and in derogation of the rights of the parties making such entries. It is necessary, to save the rights of such persons and prevent a conflict with others, to reinstate such entries, and, therefore, this ought to be done at once.

Thereupon by letter of this office of August 15, 1882, addressed to the register and receiver at Taylor's Falls, said additional homestead entries, numbered from 2,551 to 2,835 inclusive, were reinstated. Having used the broad term "all the entries heretofore canceled" in your indorsement of August 7, 1882, and this office being in doubt as to the status of the homestead and pre-emption entries, and Chippewa half-breed scrip locations which were made on said so-called reservation, and which were canceled in 1871 and 1872, the Acting Commissioner, during my absence, addressed you a letter dated August 15, 1882, and requested to be informed if said entries and scrip locations were intended to be embraced in your order of August 7, 1882, and, if so, whether the order embraced any of said entries and locations where the lands had been re-entered or relocated since cancelation in 1871 and 1872. In your letter of February 13, 1883, reference was made to said letter of August 15, 1882, and I had the honor to be informed that you had previously held that there was no reservation, and that the land was public land. That your meaning could hardly be made more explicit and certain by words than by the indorsement you made, taken in connection, as it necessarily must be, with the letter of this office of August 7, 1882, and that no reference was made directly or remotely to the canceled entries of 1871 and 1872.

Since receipt of your letter of February 13, 1883, of the two hundred and eighty-five soldiers' additional homestead entries above mentioned seventy-eight have been examined on their merits and patents thereon issued, covering an area of 6,133.65 acres of said lands. Two hundred

and seven of said entries are in the course of adjustment, many of which are in conflict with claims of the Northern Pacific Railroad Company, under land-grant acts, to tracts embraced in said entries. Many of said soldiers' additional homestead entries are in conflict with locations made by Chippewa half-breed scrip, as hereinbefore mentioned, and where such is the fact care has been taken so that no patent has issued in such conflicting cases; but in respect of the former pre-emption filings and of pre-emption cash entries and agricultural college scrip locations that were canceled as above stated, patents have been issued for the reinstated soldiers' additional entries without regard to such former filings, entries, or locations, which were considered as having been finally disposed of. I have no information whether *bona fide* settlements have been made on the land entered or whether such settlements had been made upon said lands prior to the entry thereof. Soldiers' additional entries do not require settlement as a condition of entry.

Regarding said Chippewa half-breed scrip, I have the honor to call your attention to my letter addressed you March 9, 1883, in response to your verbal request of the 6th of the same month on that subject. In that letter reference was made to the case of Henry T. Wells, who, in September, 1879, on appeal from the refusal of the district land officers to allow his application to purchase, submitted papers alleging that in 1872 he filed applications to purchase under act of June 8, 1872 (17 Stats., 340), with the commission appointed for that purpose, setting forth that he was the innocent holder of such scrip, purchased in open market, &c., and that he was entitled to the remedial provisions of said act of 1872. No action in regard to said appeal had been taken by this office, and in view of your instructions of August 7, 1882, and February 13, 1883, directing the reinstatement of the soldiers' additional homestead entries above mentioned, this office submitted for your consideration and instructions the question whether said locations should not be reinstated on the records in order that all claimants might have whatever standing, if any, they were entitled to, before the Department and have opportunity to be heard at a suitable time in defense of their respective claims, either before the Department proper or this office, as you might direct. I transmitted you therein a letter dated February 28, 1883, with inclosures from Messrs. Britton & Gray, attorneys for Wells, protesting against the reinstatement of the additional homestead entries on account of the alleged prior claim of Wells.

The records of this office regarding the present status of said lands show to March 31, 1884, as follows:

Area embraced in so-called reservation, 60,793.64 acres.

Selected and claimed by the Northern Pacific Railroad Company under land-grant act, 10,882.95 acres, none of which have been patented.

Selected and claimed by the State of Minnesota as swamp lands, 11,311.11 acres, of which 701.55 acres have been patented.

Two hundred and eighty-five soldiers' additional homestead entries, made March 12, 1879, canceled May 21, 1879, and reinstated August 15, 1882, covering 23,913.46 acres, of which seventy-eight entries, covering 6,133.65 acres, have been patented.

Selected January 14, 1867, under Article I, Chippewa treaty of May 7, 1854, for Shaw-Bosh-Kung, approved by Secretary of the Interior January 17, 1867, and patented January 19, 1867, to Shaw-Bosh-Kung, 664.70 acres.

Claimed by Shav-vash-King, under his homestead entry No. 6239, Saint Cloud series, November 10, 1869, 153.90 acres.

Frank W. Folsom, in whose favor the decision of March 1, 1877, of

the late Hon. Z. Chandler, then Secretary of the Interior, was rendered, 155.82 acres.

From November, 1882, to March 31, 1884, there were forty declaratory statement filings on said land embracing 5,614.35 acres, of which eleven declaratory statements, covering 1,580 acres, have been canceled. The declaratory statements, therefore, now alive cover 4,034.35 acres.

The cash entries made from October, 1883, to March 31, 1884, are four in number and cover 603.35 acres, and from November, 1882, to March 31, 1884, seventeen homestead entries have been made, covering 4,860.65 acres.

No orders or instructions appear to have been issued by this office to the local office regarding the allowance of entries or filings on said land, save the letter addressed them August 15, 1882, reinstating the soldiers' additional entries above referred to, and it would seem therefore from the entries and filings allowed by them in 1882, 1883, and during the current year, that without waiting for instructions from this office in the premises and as previously ordered, said officers have been acting upon their own judgment.

The question of the legality of the entries that have been passed upon by this office and whereon patents have issued was settled for the government of this office so far as concerns the status of said lands by your instructions of August 7, 1882, under which the lands are treated as having been public lands of the United States and properly subject to entry as such prior to the date of the soldiers' additional homestead entries in 1878.

If it is desired, exhibits regarding the foregoing matters covering letters, data, &c., will be furnished with the least practicable delay.

I return you herewith the aforesaid resolution of the House of Representatives.

Very respectfully,

N. C. McFARLAND,
Commissioner.

Hon. H. M. TELLER,
Secretary of the Interior.

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