

LAND ENTRIES BY INDIANS IN MICHIGAN.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

RELATING TO

Certain frauds practiced upon Indians making homestead entries in Michigan.

MAY 1, 1878.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, April 30, 1878.

SIR: I have the honor respectfully to invite your attention to the inclosed copies of correspondence addressed to this department under dates of March 5 and April 18, 1878, by the Commissioner of the General Land Office, and the 23d instant, by the Commissioner of Indian Affairs, upon the subject of certain frauds and abuses practiced upon Indians who endeavor to avail themselves of the benefits of the homestead laws in the State of Michigan.

The Commissioner of the General Land Office has prepared and presents a draught of a bill to cure the defect in the law.

The subject having been referred to the Commissioner of Indian Affairs for his views and such suggestions as he might deem advisable in the premises, and returned to the department with the proposed amendment set forth in his letter of the 23d instant, before referred to, is respectfully presented for the favorable consideration of Congress.

Very respectfully,

C. SCHURZ,
Secretary.

The SPEAKER *House of Representatives.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 5, 1878.

SIR: I have the honor to submit the following statement of facts in the case of the Indian homestead entries in Michigan, investigated and reported upon by Special Agent Brooks.

I. In the treaty of July 31, 1855 (Statutes, vol. 11, page 621), with the Ottawas and Chippewas of Michigan, in view of the condition of the

Ottawas and Chippewas, and of their legal and equitable claims against the United States, it was stipulated among other things that certain lands therein described should be withdrawn from sale for the benefit of the Indians; that a list of the Indians entitled should be made by the Indian agent within a period of time indicated; that for five years after the completion of the list the lands should be open for selection by the Indians, and title to the tracts selected to be transferred to them according to the following rule as to quantity, viz:

For each Indian being the head of a family, 80 acres; for each single person over 21 years of age, 40 acres; for each family of orphan children under 21 years of age, containing two or more persons, 80 acres; and to each single orphan child under 21 years of age, 40 acres. It was further stipulated that for five years after the expiration of the term of five years prescribed for making selections, the lands should be open to purchase by Indians only.

There was more or less irregularity in the proceedings under said treaty, but it appears that for the selection made thereunder, and the sales also, the patents have been issued, so that there is no longer any question existing in regard to them.

II. The act of Congress of June 10, 1872 (Statutes, vol. 17, page 381), provided for bringing the remainder of the lands (not timber-bearing) specified in said treaty, after satisfying the claims of the Indians under their selections and purchases before mentioned, into market for disposal as other public lands, but contained special provisions in favor of two classes of persons, viz:

1. That any Indians who had not made selections or purchases under said treaty, as before stated, including such as were minors at the expiration of the ten-year period referred to, and therefore were not entitled either to select or purchase thereunder, should be allowed the privilege of making entries according to the provisions of the homestead laws of tracts not exceeding 160 acres of minimum or 80 acres of double-minimum land for the period of six months from the passage of the act.

2. That any actual, *bona fide*, permanent settlers on the land, who settled prior to the first day of January, 1872, should be allowed to enter the land covered by their settlements under the homestead laws, or to pay therefor at the legal price in limited quantities within six months from the passage of the act.

At the expiration of six months from the passage of the act the lands remaining undisposed of were to be restored to market for disposal as other public lands. This was not carried into effect.

III. The act of Congress of March 3, 1875 (Statutes, vol. 18, p. 506), amendatory of the act of June 10, 1872, before mentioned, provided, first, for patenting certain Indian selections made under said treaty, as before stated, but, for some reason, not regularly reported and recognized prior to the passage of the act of June 10, 1872, which patenting has been done; and, second, for laying open the remainder of the lands described in said treaty (not timber) to homestead entry by any qualified person for the period of one year from its passage, with certain provisions in favor of actual settlers.

IV. The act of Congress of May 23, 1876 (Statutes, vol. 19, p. 55), amendatory of the act last above mentioned extended indefinitely the period for making entries of said lands under the homestead laws.

The Indian homestead entries made under the act of June 10, 1872, restricted to Indians who had not selected or purchased land in the reservation under the treaty, and those made under the acts of 1875 and 1876, not so restricted, are alike subject to the settlement and cultivation

requirements of the homestead laws. They are liable to contest under section 2297 of the Revised Statutes of the United States. Some of them have been regularly proved up and passed for patenting. Others have been contested under said section. Of these so contested the number investigated by special agent Brooks is forty-six—forty-two made under the act of 1872, and four under the act of 1875. Of these, twenty were canceled, thirteen held for cancellation, and thirteen were not finally acted upon by this office, when special attention was called to this class of cases, and it having been represented that the proceedings therein before the district land officers were irregular or fraudulent, the whole matter was suspended. All the contested Indian entries, together with all entries made by other parties for the tracts in question in cases where the Indian entries had been canceled, were suspended. The special agent made his investigation and reported the facts ascertained by him in the individual cases. He has reported, also, his views with reference to the cases generally, regarded in their points of resemblance.

In addition to the above forty-six contested cases, the agent reports five cases in which applications to enter by Indians were rejected by the district land officers on grounds which he deems insufficient, and entries of the tracts afterward made by white men. These entries are suspended.

He also reports the following case: An Indian woman employed an Indian man to make an entry for her. He made the entry in his own name, and not in her name, as she intended. This entry was made October 3, 1872, was proved up and commuted to cash April 1, 1875, and patented in the name of the Indian man, September 10, 1875.

The total number of cases on which the agent reported is fifty-two.

In some of the forty-six cases contested for abandonment, as above stated, there are other grounds to question the validity of the entries, as reported by the agent; as, for instance, where the party was a married woman at the date of entry, and therefore not entitled to enter under the general homestead laws.

The agent is of opinion that the proceedings were not regular in these cases, that the Indian parties were not duly notified of the time and place of hearing, that there was fraud on the part of the contestants in some of the cases, and that, generally speaking, the Indians had, in point of fact, not abandoned their entries, but had resided upon the land as continuously and improved the same as much as could be reasonably expected of Indians.

A case presenting the points involved in the cases generally has been submitted to the department, with letter of date January 30, 1878, for instructions thereon, with the view, when such instructions shall have been received, to take up and act upon the cases in regular course.

I have understood that some of the Indians failed to make selections under said treaty by reason of an accident by which the necessary papers in possession of the Indian agent were lost.

I inclose herewith the draught of a bill, the passage of which by Congress should, in my opinion, be recommended by the department for the benefit of such of the Indians as did not acquire any land under the treaty, and have sought, in good faith, to acquire homesteads under Congressional enactments.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

A BILL to confirm certain entries of public land by Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all homestead entries under the acts of Congress of June 10, 1872, March 3, 1875, and May 23, 1876, within the limits of the reservation made pursuant to the treaty of July 31, 1855, with the Ottawas and Chippewas of Michigan, which the Commissioner of the General Land Office shall find to have been made in good faith by the class of Ottawa and Chippewa Indians who had not made selections or purchases under said treaty, including such as were minors at the expiration of the period during which selections and purchases were allowed to be made thereunder, where no adverse claim of prior inception exists, and the tract does not exceed the legal maximum in quantity, shall be confirmed, and patents shall be issued thereon to such Indians, and restrictions, provisions, or requirements of the homestead laws to the contrary notwithstanding.

SEC. 2. That when applications have been made by any Indians of the class hereinbefore mentioned for homestead entries under said acts, and the applications refused by the district land officers, for any reason which the Commissioner of the General Land Office shall find to be legally sufficient, the Indians by whom the applications were made shall be entitled to the benefits of the foregoing section on their entries being made, in like manner as if made before the passage of this act: *Provided*, That where the land so applied for has subsequently been disposed of to an applicant in good faith under any of the land laws of the United States, other land may be entered by such Indian, and, upon such entry being made, the confirmation shall extend thereto in like manner as hereinbefore provided.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 18, 18 .

SIR: On the 5th ultimo I had the honor to report upon the subject of the rights of certain Indians in Michigan, under the act of June 10, 1872, referring to the several reports of special agent Brooks heretofore transmitted, and to inclose a draft of a bill for the relief of such Indians.

Understanding from you that my report has not been received, I forward herewith a copy of the same with the draft of the proposed bill.

Since its preparation I have thought that it might be advisable to add to the first section a proviso, similar in import to that attached to section two, giving alternative relief in cases where, after cancellation or other complication, the lands originally claimed may be found covered by the entry or actual settlement of other persons entitled under the homestead law by allowing the Indian to release his claim and make entry elsewhere with full confirmation of his right to receive patent upon such new entry in lieu of the original tract. This would in some cases serve to discourage litigation by providing a full satisfaction to all parties having private interests in the lands, and if the honorable Commissioner of Indian Affairs shall concur, I would recommend the insertion of such proviso in the bill.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. CARL SCHURZ,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 23, 1878.

SIR: I have the honor to acknowledge receipt by your reference of 20th instant, of copy of a proposed bill "to confirm certain entries of public land by Indians," with copy of letter of 5th ultimo, from the Hon.

Commissioner of the General Land Office, recommending the same, and his letter of 18th instant transmitting said copies and suggesting an amendment to the bill.

The proposed legislation relates to the Ottawas and Chippewas of Michigan, and is based upon the report of E. J. Brooks, esq., who, as special agent, made investigation of the frauds practiced upon said Indians in the matter of their homestead entries made under acts of June 10, 1872, March 3, 1875, and May 23, 1876.

By reference to said report it will be seen that a large number of Indian homesteads of the said tribe have been canceled by fraudulent proceedings, in the main consisting of want of notice to the homesteader as required by law, perjury, and conspiracy.

A review of the facts involved is unnecessary; they are sufficiently set forth by Mr. Brooks and the Commissioner of the General Land Office. It is sufficient to advert to the fact that these Indians who have in good faith complied with the laws governing their entries have been deprived of their homes and improvements by corrupt proceedings, and that it is the duty of the government to protect them, and, so far as possible, reinvest them in the position and property of which they have been defrauded.

I approve of the bill recommended by the Hon. Commissioner of the General Land Office, but respectfully suggest that section one be amended by the following proviso, to wit:

Provided, That where such homestead entries have been canceled for any reason whatever, and the lands embraced therein have been subsequently entered under the homestead laws of the United States by parties innocent of fraud in procuring such cancellation, such Indians shall have the right to make entry elsewhere, and shall thereupon be entitled to patents for the lands so entered in lieu of the original tracts.

Said papers are herewith returned.

Very respectfully, your obedient servant,

WM. M. LEEDS,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

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