

FORT DODGE MILITARY RESERVATION.

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior relative to the disposal of the Fort Dodge Military Reservation in Kansas.

MAY 6, 1882.—Referred to the Committee on Military Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication from the Secretary of the Interior of the 3d instant, with accompanying papers, in relation to a proposed amendment of the act of December 15, 1880, providing for the disposal of the Fort Dodge Military Reservation, Kansas.

The subject is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May 5, 1882.*

DEPARTMENT OF THE INTERIOR,
Washington, May 3, 1882.

SIR: I have the honor to submit herewith for your consideration, and, if approved, for transmission to Congress, copy of letter (and accompanying maps and papers) addressed to the department on the 12th ultimo, by the Commissioner of Indian Affairs, in which he calls attention to the fact that there is a conflict between the second article of the treaty of 1865 with the Osage Indians (14 Stat., 688) and the act of December 15, 1880 (21 Stat., 311). The treaty provides for the sale of certain lands for the benefit of the Osage Indians; the act opens up the same lands to settlement under the homestead laws, thus depriving in a great measure the Indians of the proceeds that would arise from the sale of the lands. He has accordingly prepared draft of a bill to amend said act, so as to bring it into harmony with the provisions of the treaty. The bill meets the approval of the Commissioner of the General Land Office. It is important that the matter should receive prompt action.

Very respectfully,

H. M. TELLER,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 12, 1882.

SIR: By the act of Congress, approved December 15, 1880 (21 Stat., 311), the Secretary of the Interior was authorized to cause all that portion of the Fort Dodge Military Reservation, in the State of Kansas, lying north of the land owned and occupied by the Atchison, Topeka and Santa Fé Railroad Company, for right of way for its railroad, to be surveyed, sectionized, and subdivided as other public lands, and after said survey to offer said lands to actual settlers only, under and in accordance with the homestead laws of the United States, with the proviso that said railroad company shall have the right to purchase such portion of said reservation as it may need for its use adjoining that now owned by it, not exceeding 160 acres, by paying therefor the price at which the same may be appraised by the Secretary of the Interior.

The Fort Dodge Military Reservation was established June 22, 1868, as described and defined in general orders No. 17, headquarters Department of the Missouri, dated May 29, 1868, as indicated in green on the inclosed map.

By the second article of the treaty with the Osage Indians of 1865 (14 Stat., 688), said Indians ceded to the United States a tract of land 20 miles in width from north to south off the north side of the remainder of their reservation, and extending its entire length from east to west, which was to be held in trust for said Indians, to be surveyed and sold, and the proceeds placed in the Treasury to the credit of said Indians, &c. By the sixth article of said treaty it was stipulated that should the Indians agree to remove from the State of Kansas and settle in the Indian Territory, then their diminished reserve should be sold in the same manner and for the same purpose as provided in the second article in relation to the trust lands, 50 per cent. of the proceeds of the sale of the diminished reserve to be used in the purchase of a new home in the Indian Territory.

The northern boundary of the former cession is indicated in yellow on the map. It will be observed that a portion of the Fort Dodge Military Reservation lies south of that line. It will also be observed by reference to the map that of that portion of the line of the Atchison, Topeka and Santa Fé Railway which runs through the military reservation, the greater portion lies within the Osage trust lands.

The amendment to the second article of the aforesaid treaty fixes the price at which these lands are to be disposed of at not less than \$1.25 per acre. The act of July 15, 1870 (16 Stat., 362), fixes the same price at which they are to be sold. The act of 1872 (17 Stat., 90), provides for their disposition to actual settlers, in accordance with the general principles of the pre-emption laws, under which laws they cannot be disposed of at less than \$1.25 per acre. The act of 1876 (19 Stat., 127), also fixes the price at \$1.25 per acre.

As will be seen by reference to the inclosed copies of two letters from the Commissioner of the General Land Office, dated respectively 1st and 3d instant, and one from the register of the land office at Larned, Kans., dated March 25, 1882, the following dispositions under said act have been made of that portion of the lands embraced within the military reservation and lying within the Osage lands, viz:

1st. Cash entry No. 765, by the Atchison, Topeka and Santa Fé Railroad Company, being in sections numbered 25, 26, and 35, township 26, south of range 25 west, and sections numbered 30 and 31, township

26, south of range 24 west, as delineated by plat approved June 22, 1881, and containing 142.15 acres, at \$5 per acre, as appraised under the act, amounting to \$710.75. This entry, for reasons stated in the letter of the Commissioner of the General Land Office of the 3d instant, has not been approved for patent.

2d. Homestead entry No. 6595, by Daniel M. Frost, dated October 1, 1881, upon lots numbered 9, 10, 11, and 12, section 25, township 26, south of range 25 west, and lots 14 and 15, section 30, township 26, south of range 24 west, containing 88.65 acres.

3d. Frederick W. Boyd and Fred. T. M. Wenie, respectively, applied October 25 and November 17, 1881, to file a pre-emption declaratory statement embracing the last named tracts. These applications were rejected by the local officers for the reason that they conflict with the homestead entry of Frost, which is of prior date, and are now before the Commissioner of the General Land Office on appeal.

Under the law as it now stands all the Osage lands within the military reservation lying north of the aforesaid railroad are now subject to entry under the homestead law, and the Indians receive nothing in consideration for their disposition.

To dispose of their lands in this manner is not only a very great injustice to them, but it is a violation of a solemn treaty stipulation and acts of Congress passed in pursuance thereof.

The act of 1880 should be so amended as to exclude the Osage trust lands, and, to remove all doubt as to the legality of the entry of the railroad company, a portion of which lies south of the line of its road, although I am of the opinion that under the act the company had a right to make its selections on either or both sides of its road, and of Mr. Frost's homestead entry, which is made in violation of the treaty, both entries should be confirmed by Congress, with the proviso that Mr. Frost shall pay into the Treasury of the United States, through the proper land office, \$1.25 per acre, the price fixed by the treaty for the lands entered by him, the sum to be placed on the books of the Treasury to the credit of the Osage Indians, in accordance with the second article of the treaty of 1865; and with this end in view I have had prepared and submit herewith a draft of an amendment to the act of December 15, 1880, and with your approval I respectfully recommend that the same be transmitted to Congress with request for early action, the necessity for which is obvious.

I will add that the Commissioner of the General Land Office has been requested to take the necessary steps to have the sum paid by the railroad company for the lands selected by it placed to the credit of the Osage Indians.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

THE HON. SECRETARY OF THE INTERIOR.

A BILL to amend an act entitled "An act to authorize the Secretary of the Interior to dispose of a part of the Fort Dodge military reservation to actual settlers under the provisions of the homestead laws, and for other purposes," approved December fifteenth, eighteen hundred and eighty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An Act to authorize the Secretary of the Interior to dispose of a part of the Fort Dodge military reservation to actual settlers under the provisions of the homestead laws, and for other purposes," approved December fifteenth, eighteen hundred and eighty, be, and the same hereby is, amended so as to read as follows, viz: That it shall be the duty of the Secretary of the Interior

to cause all that portion of the Fort Dodge military reservation in the State of Kansas, lying north of the following described line, viz: Beginning where the west boundary line of the Fort Dodge military reservation intersects the north boundary line of the lands ceded to the United States, in trust, by the second article of the treaty with the Osage Nation of Indians, proclaimed the twenty-first day of January, eighteen hundred and sixty-seven; thence east along the north boundary line of the lands ceded as aforesaid to its intersection with the lands owned and occupied by the Atchison, Topeka and Santa Fé Railroad Company for right of way for its railroad; thence northeasterly along the lands of the said railroad company to the east boundary line of the Fort Dodge military reservation, to be surveyed, sectionized, and subdivided as other public lands, and after said survey to offer said lands to actual settlers only, under and in accordance with the homestead laws of the United States.

SEC. 2. *Be it further enacted*, That the following described entries, made under the provisions of the act to which this act is amendatory, upon the lands ceded to the United States, in trust, by the treaty with the Osage Indians, proclaimed the twenty-first day of January, eighteen hundred and sixty-seven, viz: Cash entry numbered seven hundred and sixty-five, by the Atchison, Topeka and Santa Fé Railroad Company, being and lying in sections numbered twenty-five, twenty-six, and thirty-five, in township twenty-six south of range twenty-five west, and sections numbered thirty and thirty-one, in township twenty-six south of range twenty-four west, as delineated by plat approved June twenty-two, eighteen hundred and eighty-one, containing one hundred and forty-two acres and fifteen one-hundredths of an acre; homestead entry numbered six thousand five hundred and ninety-five of Daniel M. Frost, bearing date the first day of October, eighteen hundred and eighty-one, and described as lots numbered nine, ten, eleven, and twelve, in section numbered twenty-five, in township twenty-sixth south of range twenty-five west, and lots numbered fourteen and fifteen in section numbered thirty, in township twenty-six south of range twenty-four west, containing eighty-eight acres and sixty-five one-hundredths of an acre, be, and the same are hereby, confirmed: *Provided*, That the said Daniel M. Frost shall pay into the Treasury of the United States, through the proper land office, the sum of one hundred and ten dollars and eighty-one cents, for the land so entered by him, being at the rate of one dollar and twenty-five cents per acre, the price fixed by the said treaty at which said lands were to be sold, which sum shall be placed on the books of the Treasury to the credit of the Osage Nation of Indians, in accordance with the provisions of the second article of the aforesaid treaty.

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