

LEGALIZING THE RECORDS OF THE INDIAN OFFICE.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

A copy of a communication from the Commissioner of Indian Affairs relative to legalizing the records of the Indian Office and authorizing the use of a seal, together with a draft of a bill for that purpose.

JANUARY 12, 1892.—Referred to the Committee on Expenditures in the Interior Department and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 11, 1892.

SIR: I have the honor to transmit herewith copy of a communication of 11th ultimo from the Commissioner of Indian Affairs relative to legalizing the records of the Indian Office and authorizing the use of a seal, together with a draft of a bill for the purpose.

I also transmit herewith copy of a communication of 8th instant from the honorable Assistant Attorney-General for this Department recommending the adoption of the measures suggested.

The bill, as prepared by the honorable Assistant Attorney-General, has my approval, and I have the honor to request that this matter receive the favorable consideration of Congress.

I have the honor to be, very respectfully,

JOHN W. NOBLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 11, 1891.

SIR: Referring to pages 112 and 113 of my annual report for this year, respecting the legalizing the records of the Indian Office and authorizing the use of a seal, which received recommendation in your annual report (page 68), I now desire to submit a more detailed report on the subject.

As stated in the aforesaid printed report, grants of land have been made to sundry Indians, from the Chickasaw treaty of September 20, 1816 (7 Stats., p. 150), to the treaty of the Sacs and Foxes of the Mississippi, February 18, 1867 (15 Stats., p. 495), with a restriction placed upon the conveyance of many of said grants, some requiring the approval of the President, others the approval of the Secretary of the Interior, to pass a clear title to the land when conveyed.

By reason of these restrictions many deeds of conveyance from the reservees or their heirs or representatives have, from time to time, been submitted to this office for the requisite approval. Of such conveyances as have received approval a record has been made in this office until there has accumulated 10,959 pages of such record, as follows, viz: 2,626 pages of individual conveyances of grants and miscellaneous deeds; 5,208 pages of Shawnee deeds; 1,533 pages of Miami deeds; 1,467 pages of Kaskaskia, Peoria, Wea, and Piankeshaw deeds, and 125 pages of deeds from the L'Anse band of Chippewas in Michigan.

There is no enactment of law that I can find authorizing the recording of these deeds, and yet it is important and essential that they should be recorded for the guidance of this office in the adjustment of any questions that may arise at any time or that may be submitted for consideration respecting each particular tract or touching any inquiry that may be made as to its status.

Many calls have been made, and their frequency is increasing as the lands become more valuable, and purchasers more cautious in the examination of titles, for certified copies of deeds recorded in this office, the parties calling therefor averring, in many cases, that the original deeds have been lost, destroyed, or mislaid, and that no record of such deed was made in the proper office of record. Many of these deeds pass the title to lands which, at the time of execution, may have possessed but little value, but by reason of the influx of population, the facilities for transportation and the improvements that have been made thereon, are to-day very valuable. The further fact has been disclosed, in many instances, that the only evidence of the transfer of title from the original Indian reservee or heirs or representatives is the record kept by this office. No one knows the value of this record more than many of the land owners in Kansas who have purchased tracts once the homes of these Indians. They are constantly applying for certified copies of these deeds which are only to be found on record in this office, to complete the chain of title to their land. I therefore respectfully recommend and urge that Congress be requested to enact such legislation as will legalize the *recording* of these deeds in this office and make it the duty of the Commissioner of Indian Affairs to continue to keep a record of every such conveyance that may hereafter be approved.

As a further evidence of the urgency of early legislation on the matter, attention is invited to the information furnished this office November 6, 1885, by one P. T. McElhone, an attorney of Chicago, that in a suit then recently tried in a court of that city, a certified copy of a deed, as recorded in the office of Indian Affairs at Washington, was offered in evidence and was refused by the court on the ground that neither the statutes of the United States nor any act of Congress made it the duty of this office to keep a record of such conveyance. From this action it appears that the *very records themselves*, so far as the *recording of deeds* by this office, is involved, have been declared not to be competent evidence to establish title when the original deed is lost, a decision that is of vital importance to many of those persons now holding land that

was originally Indian land, the effect of which should be remedied by Congress at the earliest date.

The deed referred to was one executed November 22, 1870, by Joseph Robinson and Ellen M., his wife, of Chicago, conveying to Alexander McClure, also of Chicago, 20 acres of the land granted "to Alexander Robinson, for himself and children," under the fourth article of the treaty of Prairie du Chien, made with the Chippewas, Ottawas, and Pottawatomies, July 29, 1829 (7 Stats., p. 321), being "two sections on the Riviere aux Plains, above and adjoining the tract herein granted to Claude Laframboise," located in township 40, range 12 east, not 15 miles from Chicago, which was approved by President Grant March 24, 1871.

I also recommend that Congress be requested to enact the necessary legislation to empower and authorize the use of a seal by the Commissioner of Indian Affairs, and to prepare and certify under that seal such copies of records, books, and papers on file in this office, as may be applied for, to be used in evidence in courts of justice and for other purposes, which, when so authenticated, shall have the same validity as papers certified under seal by other bureaus of this Department, and for which copies so certified the reasonable fees shall be charged.

For precedents as to certificates of records and the use of a seal, I respectfully refer you to the fourth and fifth sections of the act of April 25, 1812 (2 Stats., p. 717); the act of April 9, 1824 (4 Stats., p. 18, chap. 35); the seventh section of the act of July 4, 1836 (5 Stats., p. 111); the act of March 3, 1841 (5 Stats., p. 417); the act of February 22, 1849 (9 Stats., p. 346, chap. 61); the amended act of March 2, 1849 (9 Stats., p. 350, chap. 82), and the twelfth and fifty-seventh sections of the act of July 8, 1870 (16 Stats., pp. 200, 207).

I have the honor to submit herewith the draft of a bill for the purposes herein set forth.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

A BILL to legalize the deed and other records of the Office of Indian Affairs, and to authorize the use of a seal by said office in authenticating copies of its records.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress do hereby confirm, approve, and legalize the recording of all deeds and other papers heretofore made in the office of the Commissioner of Indian Affairs, which records and papers shall be deemed, taken, and held to be good and valid and shall have all the force and effect as if the same had been recorded in conformity to law.

SEC. 2. *And be it further enacted,* That the Commissioner of Indian Affairs is hereby empowered and directed to continue to keep a record of every deed executed by an Indian reservee, his heirs, representatives, or assigns, which may require the consent of the President of the United States or the Secretary of the Interior thereto, whenever the approval shall have been given and the deed of conveyance returned so approved to said office.

SEC. 3. *And be it further enacted,* That the said Commissioner of Indian Affairs shall cause a seal to be made and provided for the said office, with such device as the President of the United States shall approve, and copies of any public documents, records, books, maps, or papers belonging to or on the files of the said office, under the signature of the said Commissioner, or under the signature of such officer as may be officiating as such, for the time being, accompanied by an impress of the said seal, shall be admitted as competent evidence in the several courts of the United States and of the several States and Territories, and shall have the same force and effect, in all cases, as the originals thereof would have if produced in court and proved.

SEC. 4. That the said Commissioner shall have the custody of the said seal, and shall furnish certified copies of any such records, books, maps, or other papers belonging to said office, to any person applying therefor, who shall comply with the requirements of said office, and upon the payment therefor by such parties at a rate not exceeding that charged by the Commissioner of the General Land Office, as provided in section four hundred and sixty-one of the Revised Statutes of the United States.

SEC. 5. That one of the employés of said office shall be designated by the Commissioner as the receiving clerk, and the amounts so received shall, under the direction of the Commissioner, be paid into the Treasury of the United States; but fees shall not be demanded for such authenticated copies as may be required by the officers of any branch of the Government, or by any Indian who shall satisfy the Commissioner by satisfactory legal evidence that he or she is not able, by reason of their poverty, to pay such fees, nor for such unverified copies as the Commissioner in his discretion may deem proper to furnish.

DEPARTMENT ON THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, January 8, 1892.

SIR: In accordance with your request I have considered the matters presented by the letter of the Commissioner of Indian Affairs, relative to the need for a law to legalize the records of the Indian Office and to provide a seal therefor. The importance of the business transacted in that office, and the large interests affected thereby, would seem to require not only that full and accurate records should be kept, but also that there should be the express sanction of law therefor. That there should be some mode of authenticating copies of records or papers is equally, or perhaps more, important. The adoption of a seal would seem to present the most practical means of meeting the requirements in this respect.

In my opinion the best interests of the Government and of those transacting business with or through the office of the Commissioner of Indian Affairs would be promoted and protected by the adoption of the measures suggested.

The Commissioner of Indian Affairs submitted with his letter a duplicate draft of a bill intended to accomplish the purposes set forth. Upon examination of this draft, I am of opinion some features of it should be changed, and have therefore prepared a draft which I submit herewith. The changes made are generally in the arrangement and the wording, the general tenor being the same.

The papers submitted are herewith returned.

Very respectfully,

GEO. H. SHIELDS,
Assistant Attorney-General.

The SECRETARY OF THE INTERIOR.

A BILL to legalize the deed and other records of the Office of Indian Affairs, and to provide and authorize the use of a seal by said office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the recording of all deeds and papers heretofore made and done in the office of the Commissioner of Indian Affairs be and is hereby confirmed, approved, and legalized, and said record heretofore made shall be deemed, taken, and held to be good and valid and shall have all the force and effect and be entitled to the same credit as if they had been made in pursuance of and in conformity to law.

SEC. 2. That the Commissioner of Indian Affairs is hereby empowered and directed to continue to make and keep a record of every deed executed by any Indian, his

heirs, representatives, or assigns, which may require the approval of the President of the United States or of the Secretary of the Interior, whenever such approval shall have been given, and the deed so approved returned to said office.

SEC. 3. That the Commissioner of Indian Affairs shall cause a seal to be made and provided for the said office, with such device as the President of the United States shall approve, and copies of any public documents, records, books, maps, or papers belonging to or on the files of said office, authenticated by the seal and certified by the Commissioner thereof, or by such officer as may, for the time being, be acting as or for such Commissioner, shall be evidence equally with the originals thereof.

SEC. 4. That the Commissioner of Indian Affairs shall have the custody of said seal, and shall furnish certified copies of any such records, books, maps, or papers belonging to or on the files of said office, to any person applying therefor, who shall comply with the requirements of said office, upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies of maps or plats, and the additional sum of one dollar for the Commissioner's certificate of verification with the seal of said office; and one of the employes of said office shall be designated by the Commissioner as the receiving clerk, who shall give bond in the sum of one thousand dollars, and the amounts so received shall, under the direction of the Commissioner, be paid into the Treasury of the United States; but fees shall not be demanded for such authenticated copies as may be required by the officers of any branch of the Government or by any Indian who shall satisfy the Commissioner by satisfactory legal evidence that he or she is not able, by reason of poverty, to pay such fees, nor for such unverified copies as the Commissioner in his discretion may deem proper to furnish.