

LETTER
OF
THE SECRETARY OF THE INTERIOR,

ADDRESSED

To the Chairman of the Committee on Indian Affairs, communicating information in relation to the Black Bob band of Indians in Kansas.

FEBRUARY 11, 1871.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 11, 1871.

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian Affairs, of this date, together with the papers therein referred to, in relation to the condition of the Black Bob band of Indians of Kansas.

Concurring with the Commissioner in the views submitted in his report, the subject is herewith respectfully laid before Congress for such consideration and action by that body as may be deemed proper.

Very respectfully, your obedient servant,
C. DELANO, *Secretary.*

Hon. JAMES HARLAN,
Chairman Committee Indian Affairs, U. S. Senate.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
February 11, 1871.

SIR: I have the honor to submit herewith copies of the following papers, transmitted to this office by Superintendent Enoch Hoag, of the Central superintendency, in reference to the Black Bob band of Shawnee Indians, and to recommend that the same be transmitted to Congress for its action, viz:

1. A petition from the chiefs of the Shawnee tribe of Indians, dated December 2, 1870, asking for the Black Bob band of their tribe such relief from their present embarrassing condition as is due them as wards of the Government, and as persons having rights guaranteed them by treaty stipulations and law, and setting forth the cause of such embarrassment.

2. A communication from Agent Reuben L. Roberts, dated December 2, 1870, forwarding said petition, with suggestions and recommendations for the relief of said Black Bob band, and asking that when the restric-

tion of the conveyance of the lands held by them in severalty is removed, measures be taken to remove the trespassers, in order that parties desiring to purchase may not be deterred from doing so, and the Indians receive a full value for their lands, which would result from the active competition for the same if purchasers were assured they could get possession.

3. A communication from Superintendent Hoag, dated December 5, 1870, transmitting the papers referred to to this office, indorsing the statements of the agent, and concurring in his recommendations.

The history of the affair of the Black Bob band of Shawnee Indians may be briefly stated as follows, viz :

By the treaty concluded with the Shawnee tribe of Indians, May 10, 1854, (Stat. at L., vol. 10, p. 1040,) the United States ceded to that tribe 200,000 acres of land, between the Missouri State line and a line parallel thereto, thirty miles west of the same. Said treaty provided that all Shawnees residing east of said parallel line should be entitled to a selection of 200 acres out of said cession, and that all of Black Bob's band who desire to hold their lands in common should have a quantity of land assigned and set off to them, in a compact body, equal to 200 acres each, and provision was made that they might afterward be permitted to hold their land in severalty, and that Congress might make provision for the issue of patents to such of the Shawnees as might make separate selections.

By an act of Congress, approved March 3, 1859, (Stat. at L., vol. 11, p. 430,) provision was made for the issue of patents as contemplated by said treaty, and under such authority patents were issued and delivered to sixty-nine members of Black Bob's band who had made selections under the treaty of 1854; and about sixty-five more members of the band who have made selections, have applied for the issue of patents as above stated.

Many of those to whom patents were issued have disposed of their lands under the rules and regulations approved by the Secretary of the Interior, in accordance with the act of March 3, 1859, the money paid for the same by the purchasers, and the deeds filed in this office for the approval of the Secretary of the Interior.

Owing, however, to the provisions of section fourteen of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirty, eighteen hundred and seventy-one, and for other purposes," approved July 15, 1870, (Pamphlet edition of Stat. at L., 1869-1870, p. 310,) the Secretary of the Interior is "directed to withhold patents for any portion of the lands known as the Black Bob Indian lands in Kansas, and also to withhold his approval of all transfers of said lands, and to permit peaceable occupancy by all settlers or Indians now residing thereon, until further action of Congress in relation thereto, without prejudice to existing rights."

It is represented by the agent in his communication, that such members of the Black Bob band as were enabled to find purchasers for their lands before the sale of the same was suspended, have removed to the Indian Territory, (an agreement having been made and approved by the President providing that the Shawnees unite with the Cherokees,) while the greater portion of them are forced to remain in Kansas without a home, their lands being occupied by trespassers by virtue of the suspension referred to, which he earnestly recommends be removed.

I respectfully recommend favorable action by Congress upon the petition of said Indians, and deem it important that something be speedily done for their relief, as great wrong has already been inflicted upon them in consequence of such suspension, and also upon the parties who pur-

chased their lands in good faith, and complied with all the rules of the Department.

Upon this subject Superintendent Hoag, in his annual report, (Report on Indian Affairs, 1870, p. 256,) makes the following remarks, viz: "Anticipating the fulfillment of their arrangements with the Cherokees for future homes, many of the Shawnees have already removed thither, and most of those yet remaining will remove this fall, even though they may not be able to dispose of their estates in Kansas advantageously, being obstructed as they are by prolonged and unjust legislation. As guardian of these Indians, the Government has permitted her citizens so far to violate her just statutes as to enter upon, occupy, and improve, in undisturbed possession, their fairest lands, thus adding to the wealth and comfort of the citizen outlaws to the discomfort and pinching poverty of her suffering wards, some of whom have been driven from their humble but loved homes, and compelled, if permitted a resting-place on soil of their own, to occupy such portion thereof as the coveting and unwelcome intruder did not desire for himself. These lawless occupants of the soil of others have for years, from the proceeds thereof, retained counsel at the seat of Government for the security of these lands to themselves, in coöperation with their members of Congress; and in a recent bill, in reference thereto, provision is made for their retaining said lands on the payment of \$2 50 per acre, when, if they were removed therefrom, or compelled to pay to the outraged owners a price which a fair competition would secure to them, as justice should secure it, these Indians would at once remove to the Cherokee country with means sufficient to enable them to open and improve homes and to surround themselves with the necessary comforts of life, and for lack of which many of these poor Shawnees have gone to premature graves. This lingering injustice has continued the Shawnee agency two years longer than its natural life, at an unnecessary expense to the Government; and it is proper to remark here that while this class of intruders are enjoying their ill-gotten incomes, the Black Bob Shawnees are appealing to their guardian, the Government, for aid to keep them from actual starvation, and some five hundred dollars has been expended for that purpose the past year."

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

OFFICE SUPERINTENDENT OF INDIAN AFFAIRS,
Lawrence, Kansas, December 5, 1870.

SIR: I have the honor to transmit herewith a communication of the 2d instant, from Agent Roberts, inclosing a memorial from the chiefs and council of the Shawnee tribe of Indians, relative to the grievances of members of the Black Bob band of said tribe.

The agent makes certain statements as to the condition of said Indians and their lands, with recommendations as to the course the Department should take in the premises. The statements of the agent are fully indorsed, and his recommendations concurred in by this office.

Very respectfully, your obedient servant,

A. C. FARNHAM, *Chief Clerk.*

Hon. E. S. PARKER, *Commissioner.*

To the honorable Commissioner of Indian Affairs, Washington, D. C. :

We, the chiefs and council of the Shawnee tribe of Indians of the State of Kansas, deem it a duty we owe to the members of the Black Bob settlement of our tribe to ask such relief from their present embarrassing condition as is due them as wards of the Government, and as persons having rights guaranteed by treaty and laws.

It is hardly necessary to inform the Department that nearly all of said Black Bob Indians have made selections of land; that the largest part of said selections have been patented; and that the patentees or their heirs desiring to remove to the Cherokee country have sold, under the rules of the honorable Secretary of the Interior, some portion of said lands.

Owing to instructions of the Secretary, all sales of the lands belonging to the members of said settlement were suspended in the month of December, 1869.

While such of the Shawnees as made selections in the first instance were permitted to sell, and most of them have sold all their land and moved into the Cherokee country, the members of the Black Bob settlement have remained here, waiting for an opportunity to sell, until they have spent all they had received for the land sold by them.

By reference to the agreement made by and between the Shawnees and the Cherokees, and approved by the President June 9, 1869, it will be seen that in order to secure the benefits of said agreement the Shawnees must, on or before the 9th day of June, 1871, register their names and permanently locate in said country; and it will be seen that this portion of our tribe are not only compelled to wait until the original severalty Shawnees have made selections, but are in danger of being deprived of homes altogether. Besides, they are very poor indeed, and must necessarily suffer great hardship during the winter that is upon them. They are worn out with suspense, and utterly discouraged; and we feel that candor requires us to say that in permitting lawless and unscrupulous trespassers to take and retain possession of their lands, the Government (in our opinion) is responsible to a very great extent for the unfortunate and destitute condition under which so many of our people are placed.

We would therefore most earnestly pray that something be done at once by which this portion of our tribe may be enabled to dispose of the balance of their lands, and thus be enabled to secure the beneficial provisions of their agreement.

We would call your attention to the letter of our chiefs in Senate Executive Document No. 40, Forty-first Congress, page 5.

Very respectfully, your obedient servants,

GRAHAM ROGERS, 1st Chief.
CHARLES TUCKER, 2d Chief.
STEPHEN BLUEJACKET,
HENRY F. A. ROGERS,
his
MOSES + SILVERHEELS,
mark. Councilmen.

Witness:

DUDLEY TUCKER.

SHAWNEE COUNCIL ROOM, December 2, 1870.

SHAWNEE AGENCY, OLATHE, KANSAS,
December 2, 1870.

SIR: I have the honor to herewith transmit a memorial of the chiefs and council of the Shawnee tribe of Indians, of the State of Kansas, relating to the grievances of members of the Black Bob settlement of said tribe, consequent upon their inability to secure patents to their lands, to which they are entitled in severalty by the terms of the treaty of 1854.

So much discussion and investigation have already been had upon the subject of the "Black Bob" lands, and the matter so frequently laid before the Department, that I should deem it unnecessary to say more or recapitulate what has already been stated in previous communications, was it not that the condition of these lands is such as to demand immediate relief from this Government.

There can be no question of the right of the members of the Black Bob settlement to select the two hundred acres to which each is entitled by the terms of the treaty before referred to, and receive a patent therefor, vesting in them in severalty the absolute title to the lands so selected and patented, with the right to convey the same in accordance with the rules and regulations of the Secretary of the Interior, made in pursuance of the act of Congress of March 3, 1859.

The present difficulties and embarrassments in relation to the aforesaid lands, entailing many wrongs and disabilities upon the Indians, have all grown out of the fact that years ago white persons went upon said lands in violation of law and in

defiance of the orders of the Commissioner of Indian Affairs and the United States agent for the tribe, and took possession of and settled upon the same, and constituted themselves an association for cooperative action, by force, if necessary, in resisting the legal rights of the Indians, or their assignees, and in cases where the Indians had received from the Government their patents for the land selected by them, these trespassers have refused to purchase the same from the patentee or recognize his title to said land as valid; and in instances where the patentees have, with the consent of the Department, and in accordance with the prescribed rules and regulations, conveyed their land to bona fide purchasers, the trespassers refused to abandon the land so conveyed, and give the rightful owners possession of the same; and this forcible resistance to the rights of legal purchasers has deprived the Indians from obtaining so much money for their lands as they would otherwise have done.

Such members of the Black Bob settlement as were enabled to find purchasers for their lands, before the sale of the same was suspended by the Department, have removed to the Cherokee country, while the greater portion of them are forced to remain here without homes, (their lands being occupied by trespassers,) for the reason that these trespassers, through their attorneys at Washington, have secured a suspension of the issuing of any more patents of said land, or the further conveyance of the same by the Indians, greatly to their detriment.

I therefore earnestly recommend that immediate action be had to remove the disability of these Indians in regard to issuing patents for their lands, and conveying the same, imposed by congressional act of July, 1870, which "directs that the Secretary of the Interior shall withhold the patents for any portion of the lands known as the Black Bob lands in Kansas, and also to withhold his approval of all transfers of said lands, and to permit peaceable occupancy of all settlers or Indians now residing thereon, until further action of Congress in relation thereto, without prejudice to existing rights." I deem it proper to state that the Indians are not protected in the "peaceable occupancy" of their lands by the aforesaid act; as they have been deprived of the occupancy of the same by the trespassers who have settled upon and occupy the land belonging to said Indians, and which is one of the greatest causes of the Indians' present grievances, and they are loth to believe that Congress intends to deprive them of their rights, guaranteed to them by treaty and statute law; but that the aforesaid legislative restrictions were secured by the representatives of the trespassers during the hurry and confusion attending the last hours of the session, and without due consideration being given to the matter; and I am confident that an examination of the subject will at once convince Congress of the injustice imposed upon the Indians by the legislation above referred to, and that they will readily remove the disability by a repeal of the act.

I would further suggest and recommend that when the restrictions of the sale of their lands by the Indians are removed, and conveyances of the same are again authorized, that the Government take measures to remove the trespassers from the lands belonging to the Indians, in order that parties desiring to purchase lands may not be deterred from doing so; that the Indians may receive the full value of the lands which would result from the active competition for the same if purchasers were assured that they could get possession.

Respectfully,

R. L. ROBERTS,
United States Indian Agent.