

## RESOLUTION

IN THE NATURE OF A

# MEMORIAL OF THE LEGISLATURE OF NEBRASKA,

PRAYING FOR

*Legislation for the removal of a certain portion of the Sioux tribe of Indians from certain lands in Knox County, in that State, and that the title to said lands may be restored to that county.*

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FEBRUARY 28, 1879.—Referred to the Committee on Indian Affairs and ordered to be printed.

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MEMORIAL AND JOINT RESOLUTION WITH REFERENCE TO THE SÁNTEE  
SIOUX INDIANS AND RELIEF OF KNOX COUNTY.

*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

We, your memorialists, the legislature of the State of Nebraska, would respectfully represent to your honorable body that a part of the Sioux Nation of Indians remain trespassers upon the soil of Nebraska, notwithstanding their participation in recent treaties between the United States and various tribes of the Sioux; that the lands which they now occupy in the county of Knox, in our State, were never owned or claimed by them, or by the Sioux Nation, but were seized and appropriated by the Interior Department for the use of the Santee Sioux Indians contrary to law, after being settled upon and cultivated by citizens of Knox, formerly L'Eau-qui-court County; and that certain islands in the Niobrara River, within the boundaries of Knox County and State of Nebraska, withdrawn from market for the use of the Ponca Indians, have not yet been restored to such market, notwithstanding said Ponca Indians have been removed to the Indian Territory south; and

Whereas that portion of the now unoccupied lands known as the Old Ponca Reservation, incorporated in the great Sioux Reservation and recently vacated by the Spotted Tail band, is most desirably situated, and equal in all respects to the lands now held by the said Santees in our State; and

Whereas the aforesaid Old Ponca Reserve is not more than six miles distant from the said lands held by the Santees as aforesaid, in the county of Knox, and no hardship, but lasting benefits, would result from their permanent location upon their own land, namely, the said former Ponca Reservation; and

Whereas the speedy removal of these Sioux Indians is of vital importance to the county of Knox and Northern Nebraska: Therefore,  
*Be it resolved,* That our Senators and Representatives in Congress are

hereby requested to use all honorable means to secure such action of Congress as may be requisite for the removal of said Indians, and for the restoration to their former condition, as public lands of the United States, all the lands within the said county of Knox, including the above-mentioned islands in (the) Niobrara River.

*Resolved*, That the secretary of state, be and is hereby, instructed to transmit a certified copy of this memorial and joint resolution, together with a copy of the report of the committee thereon, to our Senators and Representatives in Congress.

CHAS. P. MATHEWSON,  
*Speaker of the House of Representatives.*

Attest:

BRAD. D. SLAUGHTER,  
*Chief Clerk, House of Representatives.*

EDMUND C. CARNS,  
*President of the Senate.*

Attest:

SHERWOOD BURE,  
*Secretary of the Senate.*

Approved this 20th day of February, A. D. 1879.

ALBINUS NANCE,  
*Governor of Nebraska.*

I do hereby certify that this bill originated in the house of representatives and passed third reading the 13th day of February, A. D. 1879.

BRAD. D. SLAUGHTER,  
*Chief Clerk House of Representatives.*

STATE OF NEBRASKA:

SECRETARY'S DEPARTMENT.

I, S. J. Alexander, secretary of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of memorial and joint resolution, with reference to the Santee Sioux Indians, and relief of Knox County, approved February 20, 1879, with the original rolls on file in this office, and that the same is a true and perfect copy of said memorial and joint resolution.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln, this twenty-fifth day of February, in the year of our Lord one thousand eight hundred and seventy-nine, of the Independence of the United States the one hundred and three, and of this State the twelfth.

[SEAL.]

S. J. ALEXANDER,  
*Secretary of State.*

REPORT OF COMMITTEE ON FEDERAL RELATIONS.

Mr. SPEAKER: Your committee on federal relations, to whom was referred H. R. No. 5, entitled "Memorial and joint resolution with reference to the Santee Sioux Indians," praying for the relief of Knox County and State of Nebraska, having had the same under consideration, respectfully report:

From the evidence deduced in this matter, it clearly appears that the Santee Sioux Indians, aggregating in number seven hundred to eight

hundred persons, do occupy and retain in their possession lands in said county, bounded by the township, range, and section lines as follows:

Township No. 31 and 32, range No. 4 west. Township No. 32 and 33, range No. 5 west, and fractional lots No. 2, 3, 10, 11, 14, and 15, sections 22 and fractional sections 23 and 24. Sections 25, 26, 27, 34, 35, and 36; and 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33, amounting to a total of one hundred and fifteen thousand acres. (See resolution of board of county commissioners of Knox County, and exhibit marked A. B. E. and D., which are hereunto attached and made a part of this report.)

That they, the Santees, were parties to the treaties between the United States and the Sioux tribes or bands of Indians, and should be considered bound thereby. (See General Statutes approved July 20, 1867, and treaty of 1868, vol. 15, pp. 17 and 635, 636.)

It further appears that there is less than one township of six miles intervening between the lands now occupied by the Santees and the old or late Ponca Reservation, and that the said Ponca Reservation has been vacated or abandoned by the Spotted Tail band, and is in all respects equally good as or better than the lands now occupied by the Santees, and therefore no hardship would result from their removal to said reservation. (See maps and report of Inspector-General Hammond, General Sheridan's reply to Secretary Schurz.) And upon careful investigation we have failed to discover any evidence to show that these or any other Sioux Indians ever occupied or claimed any lands in Knox County, or in the territory in controversy, prior to the date of their forcible entry thereon in the spring of 1866; but that, on the contrary, the Ponca and Omaha Indians inhabited that portion of Nebraska from time immemorial until purchased from them by the United States. The proof is clear that the Santees were landed upon the town site of Niobrara, and adjacent lands in Knox County (then L'Eau-qui-court County), in April, 1866, in charge of one J. Brown, special Indian agent of the Santees, who ordered the settlers to leave, and threatened to coerce them if they dared to refuse.

It further appears that Knox County was at this time an organized county, known as L'Eau Court County, with officers duly elected, and that the town of Niobrara, within said county, had been platted and entered on the records as a town site, and that a store and other buildings had been erected therein (see Shelley's deed for town property; also act of January 13, 1860, in Laws of Nebraska Territory, and Special Laws, page 119, vol. 2, of Laws of Nebraska Territory), and that there were about one hundred settlers in said county, many of whom had made homestead or pre-emption entries of land, and improved the same in accordance with the requirements of law. (See Exhibits A, B, D, E, and Shelley's deeds; also resolution of county commissioners of Knox County.) Your committee fail to see how the law of July, 1867, and the treaty of 1868, purporting to have been made in pursuance thereof, and under which the Santees claim to hold said lands, sustain the construction given to them by the Indian Bureau, and have therefore to conclude that these lands were seized and are now held in violation of both.

In July, 1867, Congress enacted a law providing that lands should be selected for all of the Sioux Indians, and surrendered to them under treaty stipulations. Section 2 reads as follows: "Said district or districts, when so selected and approved by Congress" (not the Senate alone as regards additional selections), "shall be and remain permanent homes for said Indians to be located thereon."

This shows that the treaty which it authorized required the approval of both houses of Congress in this one instance at least, but the treaty seems never to have been concluded, Congress having refused to approve the full action of the commissioners appointed by President Johnson, if they made all selections now claimed. But the Executive, in his orders for the appropriation of the lands of Knox County to the use of the Santees, bases said orders, not upon the treaty of 1868 in question, but upon the law of July 20, 1867, one order for withdrawal of land being dated November 19, 1867, before the treaty was made (and all other laws relating to the Indians having been repealed by act of Congress March 29, 1867). The last order for still additional lands beside those just mentioned was dated September 7, 1869, after the treaty. (See Exhibit A and other records United States land office Niobrara.)

The treaty was confirmed by the Senate February 16, 1869. (See vol. 15, Statutes at Large, p. 647.) That treaty provides in Article 3, that "if it should appear from actual survey or other satisfactory examination of said tract that it contains less than one hundred and sixty acres of tillable land for each person who at the time may be authorized to reside on it under the provisions of this treaty, and a very considerable number of such persons shall be disposed to commence cultivating the soil as farmers, the United States agrees to set apart for the use of said Indians, as herein provided, such additional quantity of arable land adjoining to said reservation, or as near to the same as it can be obtained, as may be required to provide the necessary amount."

Reverting to section 2, act of July 20, 1867, to which the latter quotation from the treaty is the counterpart, it will be seen that the Indian Bureau is estopped from forestalling the effect of the treaty anticipated if such was their intention in issuing the notice of August 15, 1867, as per Exhibit H, hereunto attached. These Santees (the portion or branch in Knox County) were not on a reservation under treaty stipulations, permanent or otherwise, and therefore could not come under the provisions of section 2, act of July 20, 1867, aforesaid, by the mere edict of Mr. Denman, that certain lands were the permanent reservation of the Santees. (See Exhibit H.) We quote said section (2) as follows:

SECTION 2. *And be it further enacted*, That said commissioners are required to examine and select a district or districts of country having sufficient area to receive all the Indian tribes now occupying territory east of the Rocky Mountains, not now peacefully residing on permanent reservations under treaty stipulations to which the government has the right of occupation, or to which said commissioners can obtain the right of occupation, and in which district or districts there shall be sufficient tillable or grazing land to enable the said tribes, respectively, to support themselves by agricultural and pastoral pursuits. Said district or districts, when so selected, and the selection approved by Congress, shall be and remain permanent homes for said Indians to be located thereon, and no person(s) not members of said tribes shall ever be permitted to enter thereon without the permission of the tribes interested, except officers and employees of the United States: *Provided*, That the district or districts shall be so located as not to interfere with travel on highways located by authority of the United States; nor with the route of the Northern Pacific Railroad, the Union Pacific Railroad, Eastern Division, or the proposed route of the Atlantic and Pacific Railroad by the way of Albuquerque.

It should not be forgotten that section 2 of the treaty contains the following:

Henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories, except such as is embraced within limits aforesaid, and except as hereinafter provided.

Reference is here made to the proviso contained in article 3 above quoted. It is true that law of Congress quoted provides for additions to the reservation under certain contingencies, but the lands for the reserva-

tion having been selected, and the treaty with the Indians for the same having been ratified, your committee cannot discover how the commissioners appointed under the act of Congress of July, 1867, or any others could have authority to add the lands of Knox County to said reservation six months after the ratification of said treaty without the approval of both houses of Congress. This approval has not been secured, as will be seen by reference to action taken on Senate file No. 403, of the last session of Congress, to which allusion is made in the resolution of county commissioners of Knox County accompanying this report.

Your committee beg leave to state a number of additional facts relative to the settlement upon the lands withdrawn from market at the different times, and the many changes made respecting them. Sixteen hundred acres were at the time of withdrawal filed upon and under improvement under the pre-emption laws; eleven hundred acres filed upon under the homestead law; twenty-six hundred acres were entered lands for which patents have been issued; some of the townships in which part of these lands were situated were restored to market after being in du-rance upwards of three years. One hundred and sixty acres was repurchased by the government (Huddlestone's homestead), but other lands were neither so obtained nor restored, but remain to this day in the anomalous condition of being within an Indian reservation, though owned in fee-simple by white men, citizens of the United States (A. Cooks, &c.), for the proof of which see Exhibit I, hereunto attached and made a part of this report.

The uncertainty of action and vacillation of the department, as shown in the many changes, seizures of lands, and revocation of the same, cannot be accounted for by your committee, nor the unaccountable persistency of the Indian Bureau in their attempt to convert a portion of fair Nebraska into a foreign Indian reservation without the sanction of law, as will appear in the action of Congress referred to above, and in continuing the cruel wrong caused by the introduction of a band of savages into Knox County, who had but recently been engaged in the horrible massacre of Minnesota and Iowa. Your committee respectfully submit that the time has come for demanding the enforcement of the rights of the State of Nebraska as against the usurpation and defiance of law in the department under whose authority these wrongs continue.

As regards the islands in the Niobrara River in the State of Nebraska, they should revert to their previous condition as public lands subject to the pre-emption and other laws relating to the public lands of the United States, and should be so treated and proclaimed by the authorities.

All of which is respectfully submitted, with the recommendation that the memorial and joint resolution do pass as amended, and that the memorial be ordered to a third reading.

OSCAR BABCOCK, *Chairman.*

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EXHIBIT A.

UNITED STATES LAND-OFFICE, *Niobrara, Nebr.*

I, Benjamin F. Chambers, register of said land-office, do hereby certify that the records of this office show the following facts:

1st. That the following described lands were withdrawn for the Santee Sioux Indians on the 7th day of September, A. D. 1869: Township 31, range 4 west, and fractional lots 2, 3, 10, 11, 14, and 15, section 22 and fractional section 23 and 24, sections 25, 26, 27, 34, 35, and 36, in township 33, range 4 west.

2d. That township 32, range 4 west, was withdrawn for said Santee Indians November 19, 1867.

3d. That township 31, range 5 west, was withdrawn for said Indians March 2, 1866.  
 4th. That township 32, range 5 west, was withdrawn for said Indians March 2, 1866.

5th. That fractional township 33, range 5 west, was withdrawn for some purpose, July 24, 1866.

6th. That township 31, range 6 west, was withdrawn for said Indians March 2, 1866, and restored to market September 15, 1869.

7th. That fractional township 32, range 6 west, was withdrawn for said Indians March 2, 1866, and restored January 6, 1868.

8th. That township 31, range 7 west, was withdrawn for said Indians July 24, 1866, and restored September 15, 1869.

9th. That township 32, range 7 west, was withdrawn for said Indians July 24, 1866, and restored September 15, 1869.

10th. That township 31, range 8 west, was withdrawn for said Indians July 24, 1866, and restored September 15, 1869.

11th. That township 32, range 8 west, was withdrawn for said Indians July 24, 1866, and restored September 15, 1869.

12th. That at the time of the said several withdrawals there were in township 33, range 4 west, about 1,500 acres filed upon by pre-emption, and one homestead of 160 acres by Alexander Cook; in township 32, range 5 west, about 160 filed upon by pre-emption, and 160 acres by homestead of M. Huddleson. In township 33, range 5 west, about 800 acres filed upon by homestead prior to the receiving the notice of withdrawal at this office; in township 32, range 6 west, about 2,500 acres of entered lands for which patents have been issued; in township 31, range 7 west, 160 entered as a homestead by James F. Small.

Given under my official hand at the United States land-office at Niobrara, Nebraska, this 7th day of January, A. D. 1878.

BENJAMIN F. CHAMBERS,  
*Register.*

#### EXHIBIT B.

#### *Affidavit of B. Y. Shelley.*

THE STATE OF NEBRASKA,  
*Knox County, ss:*

B. Y. Shelley, being duly sworn, deposes and says that he is a resident of said county a great portion of the twenty-one years last past, and that he commenced his improvements and the occupation of the S. E.  $\frac{1}{4}$  S. W.  $\frac{1}{4}$ , and lot No. 3 of section 11, S. W.  $\frac{1}{4}$  N. E.  $\frac{1}{4}$ , and the E.  $\frac{1}{4}$  N. W.  $\frac{1}{4}$  section 14, township 32, range 6 west, on the 15th day of October, 1859, and that he filed upon the same land above described, at the local land-office at Dakota City, Nebraska, on the 15th day of November, 1859, and made final proof for the same, and received his receipt for the same on the 5th day of September, 1861, and that patent issued therefor to him on the 10th day of November, 1868, recorded in volume 201, page 100, as appears by the records in said local land-office, and the office of the United States recorder, and that he owned said land July 21st, 1866, and he owned sixty-three (63) town-lots in the city of Niobrara, in said county and State, on the 18th day of February, 1861, as more fully appears by a copy of the said deed hereto appended, and certified to by the clerk of said county, and that said pre-emption and town-lots aforesaid were embraced in the order of the President, dated July 21st, 1866.

B. Y. SHELLEY.

Subscribed and sworn to before me this 7th day of January, A. D. 1878.

CHAS. COOLEY,  
*County Judge in and for said County.*

#### EXHIBIT H.

#### *Notice.*

By letter from H. B. Deuman, esq., superintendent Indian affairs, Northern Superintendency, dated July 3, 1867, I am advised that the new reservation for the Santee Sioux Indians, on what is known as the "Brekenridge bottom," is bounded by the following township, range, and section lines, as follows: Township 32 and 33, range No. 5; township 32 and range No. 4. And the following sections in township No. 33, range No. 4: Sections No. 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33.

All persons are, therefore, hereby notified that the above-described tract of land is set apart by government for the Santee Sioux Reservation, and no encroachment or occupation by white men will be allowed thereon, and any property erected or put on

said land, or wood cut thereon, will be taken for the use of the government, and all persons now residing on said reservation are notified to leave the same forthwith, or subject themselves to the penalty of law for such cases made and provided.

J. M. STONE,  
United States Indian Agent.

SANTEE AGENCY, NEBRASKA, August 15, 1867.

EXHIBIT E.

*Affidavit of Otto E. C. Knudsen and George W. Howe.*

STATE OF NEBRASKA,

*Knox County, ss :*

Otto E. C. Knudsen and George W. Howe, being first duly sworn, say on oath that they were living upon and residing on, as pre-emptors, on section 4, township 31, range 4 north, Knox County, Nebraska, at the time of the executive withdrawing the above described lands, dated September 7, 1869, and was put off of said lands by Agent Jenney, United States Indian Agent for the Santee Sioux Indians at this time.

OTTO E. C. KNUDSEN.  
GEO. W. HOWE.

Subscribed and sworn to before me this 7th day of January, A. D. 1878.

CHAS. COOLEY,  
County Judge in and for said County of said State.

EXHIBIT I.

THE STATE OF NEBRASKA,

*Knox County :*

I, the undersigned, Vac Randa, county clerk in and for said county, hereby certify that I have carefully examined the records of said county, and find that the following described lands, situated within the boundaries of the Santee Sioux Reservation, in Knox County, Nebraska, were entered by white American citizens during the year 1868, as returned by the United States land-office at Dakota, Nebraska, and subject to taxation in Knox County, as appears on file and record in my office.

And I further certify that the below named white American citizens, in whose names said lands were entered, are now residing upon said land, and all the taxes and assessments against said lands were paid up to the present date by the said white citizens, viz :

	Acres.
Anthony Gennick, southeast quarter of northwest quarter section 15, township 33, range 4 west .....	40
Anthony Gennick, northeast quarter of southwest quarter section 15, township 33, range 4 west .....	40
Anthony Gennick, northwest quarter of southwest quarter section 15, township 33, range 4 west .....	40
Anthony Gennick, southeast quarter of southwest quarter section 15, township 33, range 4 west .....	40
Anthony Gennick, lots 1 and 2 section 15, township 33, range 4 west .....	93. 60
Alex. Cook, southeast quarter of northeast section 23, township 33, range 4 west .....	40
Alex. Cook, northeast quarter of southeast section 23, township 33, range 4 west .....	40

Witness my hand and seal of said county this 16th day of January, A. D. 1879.

[SEAL.]

VAC RANDA,  
County Clerk.

MEMORIAL AND RESOLUTION.

*To the honorable the Senate and House of Representatives in Congress assembled :*

Whereas that seven hundred Santee Sioux Indians are now, and have been for the last ten years, occupying about one hundred and fifteen thou-

sand acres of the land in Knox County, Nebraska, without any authority of law; and whereas said Santee Indians were placed upon these lands after Nebraska had become one of the States of the Union, and has never given her consent to the location of these Indians within her boundaries; and

Whereas these Santee Indians are a part of the Sioux tribe of Indians, and have been and are parties to all the existing treaties of the United States with the Sioux Indians, and hold in common with the rest of the Sioux Indians the great Sioux Reservation in Dakota Territory; and

Whereas a bill has been introduced into the Senate by Senator Allison, of the United States Senate, No. 403, to give these Santee Indians all of said lands that they are now occupying in said Knox County, Nebraska:

*Resolved*, That the gift of these lands to the Santee Sioux Indians by the United States, as proposed in said bill, without the consent of the State of Nebraska, would be unjust and an outrage to the State of Nebraska, and especially to the citizens of Knox County; that the giving of said lands to these Indians on account of their being situated near the center of said county would be a great and irreparable damage to the county and all of its citizens; that the Sioux Reservation in Dakota Territory is abundantly large, and has a sufficient amount of good lands for all of the Sioux Indians who are parties to the granting this reservation, and that these Santees can remove upon their said reservation in Dakota Territory without material damage to themselves or to their progress in civilization.

*Resolved*, That we call upon the Congress of the United States to make a thorough examination in the matter of the location and keeping of the said Santee Sioux Indians in our said Knox County, and the results and effects of giving to them the said lands, as provided in Senate bill; and that after such examination such action be taken as is just, not only to these Santee Sioux Indians, but also to the citizens of Knox County and the State of Nebraska, and that we herewith submit the annexed documents to show the truthfulness of our statements.

1. That the said land was withdrawn since this was a State by Presidential order July 21, 1866, and then by Presidential order September 7, 1869, a part of the same was restored to the public domain, and other lands in said county withdrawn in lieu thereof.

2. They never had any treaty which is of any force now, except the treaty of 1868, which provided that a large tract of country in Dakota Territory, now occupied, be set apart for them to select reservations from; that they never selected any part of said tract for their reserve, and, if they were now upon said reserve, and occupying a portion of it, they would only have the right of occupancy, no valid title in fee.

3. That the said Indians are now in said county of Knox and State of Nebraska without the authority of law, and that they have no claim, not even the right of occupation. By the act of July 20, 1867, the power of treating with the Indians was given to the President, Secretary of the Interior, and the Commissioners of the Indian Department, as had existed under the law prior to the act of March 29, 1867. In that act creating the commission to treat with the Sioux tribes of Indians, viz, act July 20, 1867, the right of Congress to approve selections for reservations is clearly expressed and affirmed, showing the intention of Congress to leave the powers with the President, and Secretary, and Commissioner to treat with the Indian tribes, but recognized the right and power only to reside in Congress to dispose of the public domain; the fee-simple title to all lands within the territorial limits of the United



States which have not been disposed of under or pursuant to some resolution of both houses of Congress is vested in the United States. Such lands are therefore the property of the United States, subject only to the disposal of Congress.

There is no instance in which it can be claimed that Indians, under any treaty made solely by the President and the Senate whereby any title higher than occupancy could be acquired.

Before a fee-simple can be vested it must be by a resolution of both houses of Congress. Then, what can be said of the validity of a claim created by the President's order alone, without the concurrence of the Senate, and that to lands within the boundaries of a State? (See *Johnson vs. McIntosh*, 8th Wheaton, 574. *United States vs. Cook*, 19 Wallace, 549.)

Adopted by order of the board of county commissioners of Knox County, State of Nebraska, in open court, at a regular meeting, on the 7th day of January, A. D. 1878.

FRANK NELSON,  
WM. SAUNDERS,  
CARL WITTE,  
*County Commissioners.*

Attest:

VAC RANDA,  
*County Clerk.*

Filed in the commissioner's court for Knox County, Nebraska, this seventh day of January, 1878.

[SEAL.]

VAC RANDA,  
*County Clerk.*

This indenture, made this eighteenth day of February, in the year of our Lord one thousand eight hundred and sixty-one, witnesseth:

That whereas the Congress of the United States passed an act entitled an "Act for the relief of citizens of towns upon the lands of the United States under certain circumstances," approved May 23rd, A. D. 1844; and whereas the legislative assembly of the Territory of Nebraska, under and in pursuance of said act of the said Congress, passed an act entitled "An act to regulate the entry and disposal of town sites," approved November 4, A. D. 1858; and whereas the board of trustees for the town of Niobrara have paid for and received a title from the United States in trust for the occupants and owners of the lots and pieces of land in the town of Niobrara, Territory of Nebraska, which town is located upon the north half of the northeast quarter of section fifteen, and the southeast quarter, and lots number one and two of section ten, in township thirty-two, of range six west: Now, therefore, by virtue of the power in said board of trustees vested, by the two several acts, as such trustee aforesaid, the board of trustees for the town of Niobrara, in consideration of the premises and forty-three and 70-100 dollars paid, the receipt whereof is hereby acknowledged, do, by these presents, convey unto B. Y. Shelley all those certain pieces or parcels of land, being in the town of Niobrara, L'Eau-qui-Court County, and Territory of Nebraska, as surveyed by Carl P. Meyer, and described as follows, to wit: Lots nine (9) and twelve (12), block three hundred and three (303); lot thirteen (13), block three hundred and thirty-four (334); lot sixteen (16), block three hundred and two (302); lot five (5), block three hundred and seventy (370); lot five (5), block three hundred and thirty-five (335); lots five (5) and eleven (11), block three hundred and thirty-three (333); lot fourteen (14), block three hundred and four (304); lot fifteen (15), block three hundred and one (301); lots ten (10) and twelve (12), block three hundred and thirty-eight (338); lots eleven (11) and twelve (12) block three hundred and ninety-nine (399); lots four (4) and sixteen (16), block two hundred and thirty-eight (238); lot twelve (12), block two hundred and sixty-nine (269); lot fourteen (14), block two hundred and thirty-nine (239); lot thirteen (13), block two hundred and forty (240); lot twelve (12), block two hundred and sixty-eight (268); lot fifteen (15), block two hundred and seventy-two (272); lots one (1), six (6), and fifteen (15), block three hundred and fifty-seven (357); lots six (6) and sixteen (16), block three hundred and five (305); lot six (6), block three hundred and thirty-two (332); lot two (2),

block three hundred (300); lot fifteen (15), block three hundred and thirty-nine (339); lots twelve (12) and (14), block two hundred and ninety-eight (298); lot six (6), block three hundred and sixty-one (361); lot seven (7), block three hundred and thirty-one (331); lots eleven (11) and twelve (12), block three hundred and forty (340); lot four (4), block three hundred and thirty (330); lot nine (9), block two hundred and ninety-six (296); lot seven (7), block three hundred and fifty-nine (359); lot fourteen (14), block three hundred and ninety-one (391); lot five (5), block three hundred and eight (308); lot five (5), block three hundred and twenty-nine (329); lot six (6), block three hundred and sixty (360); lot eight (8), three hundred and seven (307); lot twelve (12), block two hundred and ninety-five (295); lot two (2), block three hundred and twelve (312); lots one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and sixteen (16), block three hundred and twenty-five (325); lot nine (9), block two hundred and thirteen (213); lot one (1), block three hundred and twenty-four (324); total, sixty-three lots, the said B. Y. Shelley being the owner and occupier of the same.

In witness whereof I have hereunto set my hand this eighteenth day of February, A. D. 1861.

By authority of the board of trustees for the town of Niobrara.

FERD. WEIS,  
Chairman.

Executed in presence of—  
H. HARGIS.  
H. E. GREGORY.

TERRITORY OF NEBRASKA,  
County of *L' Eau-qui-Court* :

On the eighteenth day of February, A. D. 1861, before me, Walter M. Barnum, a justice of the peace in and for said county and Territory, personally appeared Ferdinand Weis, chairman of the board of trustees for the town of Niobrara, and acknowledged the execution of the foregoing conveyance to be his voluntary act and deed as chairman of the board of trustees for said town. And I further certify *further* that I know the said Ferdinand Weis who made the said acknowledgment to be the identical person whose name is affixed to said deed as grantor, and who is chairman of the board of trustees for said town.

In witness whereof I have hereunto set my hand the day and year above written.

WALTER M. BARNUM,

*Justice of the Peace in and for the County of L'Eau-qui-Court, Territory of Nebraska.*

EXHIBIT D.

STATE OF NEBRASKA,  
Knox County, ss :

William Bingham, C. G. Benner, L. L. Paxton, T. N. Paxton, and H. Westerman, being duly sworn, say that on March 2nd, 1866, July 21st, 1866, September 7th, 1869, they resided upon the said land withdrawn by executive order of those dates for the Santee Sioux Indians' reserve, and that there were about one hundred actual white settlers residing and occupying said lands so withdrawn, and that there were two regular town sites platted and filed according to law, and duly obtained, as more fully appears by the records appended thereto, and that many of these had those lands in fee-simple, and others had pre-emption and homestead filings upon said lands, and that the said town company were residing upon and improving the lots of Niobrara, and that the Indians, per the executive orders of March 2nd, 1866, July 21st, 1866, were landed upon said lands in April, 1866, in charge of J. Brown, special Indian agent for said Santee Indians; said special agent ordered the settlers to leave, and threatened if they did not leave he would turn the Indians on them and compel them to leave, and that there were two stores here at the time, one kept by H. Westerman and the other by T. N. Paxton, deponents above named, and that they were selling goods upon land owned by them in fee-simple, and that they had owned said lands so occupied and kept store upon the same for the space of about five years previous, and that said special agent closed up their stores and ordered them to leave.

C. G. BENNER, SR.  
T. N. PAXTON.  
H. WESTERMAN.  
WILLIAM BINGHAM.  
L. L. PAXTON.

Subscribed and sworn to before me this 7th day of January, A. D. 1878.

CHARLES COOLEY,  
*County Judge of Knox County, State of Nebraska.*