SENECA NATION OF NEW YORK INDIANS.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior and a memorial of the council of the Seneca Nation of New York Indians against the passage of Senate bill No. 19.

MARCH 1, 1882.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith a letter from the Secretary of the Interior, inclosing a memorial and papers from the Seneca Nation of New York Indians, embodying a resolution and remonstrance against the passage of Senate bill No. 19, "to provide for allotment of lands in severalty to Indians upon various reservations," &c., together with report thereon of the Commissioner of Indian Affairs, recommending an amendment to the seventh section thereof, excluding the lands of said Indians.

The accompanying papers are transmitted with the message to the Senate.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
February 28, 1882.

DEPARTMENT OF THE INTERIOR,
Washington, February 20, 1882.

SIR: I have the honor to submit herewith a memorial of the Seneca Nation of New York Indians, embodying a resolution and remonstrance against the passage of Senate bill No. 19 of the present session, adopted at a meeting of their council, on the 22d of December, 1881, and addressed to the Senate and House of Representatives through this department.

A brief of facts in the case, and an amended statement filed in connection with said memorial by the delegation of Seneca Indians of New York now in this city, will also be found herewith, together with a copy

of report of the Commissioner of Indian Affairs upon the subject, setting forth the status of the lands held by the Seneca Indians in the State of New York, and recommending an amendment to Senate bill No. 19, entitled "A bill to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes," to the 7th section thereof, excluding the lands of the Seneca or New York Indians in the State of New York. The recommendation of the Commissioner has the concurrence of this department.

A copy of Senate bill No. 19 is also inclosed for your information.

Inasmuch as similar legislation is pending in the House of Representatives, as will be seen by the copy of H. R. 3180 herewith, I suggest that the attention of that body be called to the subject of the memorial and accompanying papers.

I have the honor to be, sir, very respectfully, your obedient servant,

S. J. KIRKWOOD,
Secretary.

The PRESIDENT.

At a meeting of the Council of the Seneca Nation of New York Indians held at their council-house on the Allegany Reservation December 22, 1881, the following resolutions and remonstrance were duly adopted:

"*Resolved*, That this Council of the Seneca Nation of New York Indians, in open council, hereby adopt the following remonstrance against the passage of Senate bill 19:

"'*To the honorable Senate and House of Representatives of the United States of America:*

"'The Seneca Nation of New York Indians, occupying the Allegany, Cattaraugus, and Oil Spring Reservations in the State of New York, most respectfully and earnestly remonstrate against the passage of Senate bill 19, entitled "A bill to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes."

"'The following are some of the reasons why said Seneca Nation of New York Indians oppose the passage of said bill:

"'1. The Seneca Nation of New York Indians is satisfied with its present status, and cannot hope to be benefited by the proposed change.

"'2. The effect of said bill would be to modify or abrogate the treaty made between the United States Government and said Seneca Nation of New York Indians without the consent of one of the contracting parties.

"'3. It would supersede the tribal relations of said Seneca Nation of New York Indians, which would be detrimental to its interests, and to the prosperity of the Indians of said nation.

"'4. The interest of said Seneca Nation of New York Indians in the lands of said reservations, except the Oil Spring Reservation, which they own in fee, is the right to occupy the same subject to the pre-emption right of the Ogden Land Company, and when said lands cease to be held in common the Seneca Nation of New York Indians has grave fears that the Ogden Land Company will dispossess the allottees provided for in said bill.

"'5. The bill gives squatters from other tribes now on said reservations benefits and rights to which they are not entitled.

"'6. Under the present system by which the Senecas, with a constitutional form of government, regulate and control all their own affairs, they are rapidly improving in their social condition. Agriculture flourishes, the houses and farms of the Indians are constantly improving, the people are contented and prosperous, and there are no paupers to be a burden on the community. Many have cattle, horses, and crops in abundance, and all have sufficient to live upon by the aid of moneys held in trust for them by the honorable Government of the United States. This condition of independence and prosperity is largely due to the system by which the lands are owned in common, controlled by the national councils, and are permanently inalienable. Under this system no Indian, however improvident and thriftless, can be deprived of a resort to the soil for his support and that of his family. There is always land for him to cultivate free of tax, rent or purchase price.

"'This system is guaranteed to us by solemn treaties, and we earnestly protest that

this condition of growing contentment and prosperity shall not be suspended and replaced by any experimental one.

"'7. By the proposed measure the Indians are made subject to all the laws of the State, but are not given any voice in the enactment of those laws; except that the lands so allotted are made free from taxation for a limited period, the Indians and their property of any kind may be taxed at the pleasure of the State, and they cannot be heard in relation to the rate or method of that taxation. Do not impose upon your helpless remonstrants a burden which your noble ancestors found it impossible to bear—that of taxation without representation. We humbly ask that the Seneca Nation of New York Indians residing upon the Allegany, Cattaraugus, and Oil Spring Reservations may be exempted from the provisions of the said bill in the same manner as the tribes mentioned in the 7th section of said bill.'

"*Resolved*, That a duly authenticated copy of these resolutions be forwarded to Congress in charge of a delegation of three of our people, and that such delegation be instructed to fully present to Congress and the Department of the Interior our views in relation to the subject matter of the said bill."

The foregoing is a true copy of the resolutions and remonstrance duly adopted as above stated, and is an extract from the records of the council.

In testimony whereof the Seneca Nation of New York Indians has caused these presents to be signed by their president and the councilors present, and to be attested by the clerk, and the great seal of said nation to be thereto affixed.

WILLETT B. JIMESON,
President.

ANDREW JOHN, Jr., *Clerk.*

Councilors residing on the Cattaraugus Reservation.	*Councilors residing on the Allegany Reservation.*
HORACE JIMESON, his x mark.	WALLACE HALFTOWN.
MOSES LAY, his x mark.	THOMAS PIERCE.
GEORGE JACOB, his x mark	FRANCIS JONES.
JOHN JACK, his x mark.	JOSEPH JIMESON.
JOHN PATTISON, his x mark.	IRA PIERCE.
DAVID PATTISON, his x mark.	JONATHAN PIERCE.
ANDREW FOX, his x mark.	
JACK HUDSON, his x mark.	

I, Benjamin G. Casler, United States Indian agent for the New York Agency, do hereby certify that the foregoing resolutions and remonstrance were duly adopted by the Council of the Seneca Nation, and executed by the clerk and councilors in my presence, on the Allegany Reservation, this 22d day of December, 1881.

BENJAMIN G. CASLER,
U. S. Indian Agent.

[A copy.]

FEBRUARY 4, 1882.

Respectfully referred to Commissioner of Indian Affairs for report and recommendation.

S. J. KIRKWOOD,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 14, 1882.

The honorable the SECRETARY OF THE INTERIOR:

SIR: I have the honor to acknowledge the receipt, by your reference, of the 4th instant for report and recommendation, of a protest dated the 12th of December last, accompanied by a statement of facts filed by the Seneca Nation of New York Indians, remonstrating, for reasons set out therein, against the passage of Senate bill No. 19, Forty-seventh Congress, first session, "to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes."

The object of the protest and remonstrance is to have the bill so amended as to exclude from its provisions the Seneca Nation of New York Indians, and their lands.

It will be observed from the following statement of facts that these Indians hold their lands by a tenure different than that by which Indians generally hold their lands.

By the treaty of October 22, 1784 (7 Stat., p. 15), the western boundary of the lands of the Six Nations was established and defined, and they were guaranteed the peaceful possession of the lands they inhabited east and north of said line, six miles square round the fort at Oswego being reserved to the United States.

By the treaty of 1789 (*Id.*, 33), the boundary line established by the treaty of 1784 was confirmed, and all the lands west of said line were ceded to the United States, and by the 2d article of said treaty the United States confirmed to the Six Nations all the lands they inhabited, east and north of said boundary line, "and relinquish and quitclaim to the same and every part thereof," except the six miles square round Fort Oswego.

At an early day a controversy arose between the States of Massachusetts and New York respecting the title to these lands: Massachusetts claimed them under the grant of King James I, to the Plymouth Company; New York claimed them under the grant grant of Charles II to the Duke of York, in 1663. This dispute was finally settled by a convention between the two States on the 16th of December, 1786, whereby it was agreed that the State of New York should have the right of government and jurisdiction over said lands, and the State of Massachusetts the right of pre-emption of the soil from the native Indians.

Massachusetts sold the larger portion of this tract to Oliver Phelps and Nathaniel Gorham, and the remainder to John Brown.

Phelps and Gorham having failed to comply with the terms of their contract, that portion of the land which they failed to pay for was granted to Robert Morris in 1791. The grant to Morris embraced the lands of the Six Nations.

The boundaries of the lands of these Indians were again defined and established by the treaty of 1794 (7 Stat., 44), the United States agreeing to never claim the same, or to disturb the Indians in the free use and enjoyment thereof.

By a contract entered into between the Seneca Nation of Indians and Robert Morris, September 15, 1797 (*Id.*, 601), Morris purchased from the Senecas, for the sum of $100,000, a large tract of country, reserving to the Indians certain tracts therein named and described.

Morris soon after his purchase appears to have disposed of his right of pre-emption to the lands acquired from the State of Massachusetts, to the Holland Land Company.

An agreement was entered into June 30, 1802 (*Id.*, 70), between certain parties (supposed to be afterward known as the Holland Land Company) and the Seneca Nation of Indians, whereby said nation ceded to said parties the lands embraced in the Cattaraugus Reservation, by the agreement with Morris, and in lieu thereof the said parties ceded to the Senecas the land described therein in accordance with the survey executed in 1798 (the present Cattaraugus Reservation).

By the treaty of June 30, 1802 (7 Stat., 72), the Seneca Nation ceded to Oliver Phelps, Isaac Bronson, and Horatio Jones the tract known as "Little Beard's Reservation."

By the treaty of 1831 (7 Stat., 342), the Menomonee Indians ceded to the United States a large tract of country therein described at Green Bay, Wisconsin, for a home for the several tribes of New York Indians, to which the New York Indians gave their assent October 17, 1832.

By the 1st article of the treaty of 1838 (7 Stat., 551), the New York Indians relinquished their right to the lands secured to them by the Menomonee treaty of 1831, and in consideration of such relinquishment, the United States agreed to set apart other lands west of the State of Missouri for their permanent homes.

By the 10th article of this treaty, special provisions were made for the Senecas, including the Onondagas and Cayugas. The tribe was to remove from the State of New York to their new home within five years. This section then recites the purchase of the title of the Seneca Nation to certain lands described in a deed of conveyance to Thomas L. Ogden and Joseph Fellows (presumed to be the assignee of the Holland Land Company, and now known as the Ogden Land Company), in whom the pre-emption right of the State of Massachusetts appears to have vested, for the consideration of $202,000, and directs in what manner the fund shall be disposed of.

The deed of conveyance from the Seneca Nation to Ogden and Fellows, referred to in the treaty, is annexed thereto. It conveys four reservations in western New York, viz:

The Buffalo Creek Reservation, estimated to contain 49,920 acres; the Cattaraugus, estimated to contain 21,680 acres; the Allegany, estimated to contain 30,469 acres; and the Tonawanda, estimated to contain 12,800 acres.

Before the expiration of the five years, within which the Indians were to remove, difficulties arose between them and Ogden and Fellows, which resulted in the treaty of 1842 (7 Stat. 586).

In the preamble to this treaty reference is made to the treaty of 1838, and to the differences which had arisen between the parties thereto, and by the first article Ogden and Fellows covenanted and agreed in consideration of the release and agreements thereinafter contained, that the Seneca Nation should and might continue in the occupation and enjoyment of two of the reservations, the Cattaraugus and Allegany, the

same as before the deed of conveyance, saving and reserving to Ogden and Fellows the right of pre-emption, and all other right and titles which they then had or held in, or to the said tracts of land. In the second article, the Seneca Nation, in consideration of the foregoing and other stipulations, agreed to release and confirm to Ogden and Fellows, the two remaining reservations, the Buffalo Creek and Tonawanda.

The third article provided for reducing the amount of the purchase money paid by Ogden and Fellows, so as to correspond with the relative value of the two reservations released, to the value of the four as fixed by the treaty of 1838.

I will add in this connection that 7,549 acres of the Tonawanda Reservation were repurchased by the Seneca Indians, under the provision of the treaty of November 5, 1857 (11 Stat. 735), the deed bearing date February 14, 1862, and is held in trust by the comptroller of the State of New York. (See third article above treaty.)

It will be observed from the foregoing that the Seneca Indians hold the lands embraced in the Cattaraugus and Allegany Reservations by right of occupancy, the right of pre-emption being in the Ogden Land Company, and upon the extinguishment of that right of occupancy the fee absolute vests in said company.

While this department, in considering the question of the allotment of lands in severalty, has never taken into consideration the lands of the Seneca or New York Indians, and while said Indians may defeat the provisions of Senate bill No. 19, so far as relates to their own lands, by refusing to give their consent as required by the ninth section of the bill, yet in view of the tenure by which they hold their lands, and the anxiety on their part lest they lose the same, should the bill become a law, I have the honor to recommend that the chairman of the Senate Committee on Indian Affairs be requested to so amend the seventh section of the bill as to exclude the lands of the Seneca or New York Indians in the State of New York.

The papers referred by you are herewith returned, and a copy of this report inclosed.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

Brief of facts and history of the Seneca Nation tribe of Indians respecting their reservations against being included within the provisions of Senate bill No. 19, first session Forty-seventh Congress, being "a bill to provide for the allotments of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes."

The Seneca tribe of Indians protest against being included within the provisions of said bill, for reasons stated in their printed remonstrance. In addition thereto the following facts are afforded:

The Seneca tribe of Indians, so far as respects their reservation and rights, are differently situated from any other tribe of Indians.

The United States never had any title whatever to any of the lands belonging to this tribe at the present time.

The lands now held and occupied in common by this tribe, known as the Allegany, Cattaraugus, and Oil Spring Reservations, were ceded by James II to the province of Massachusetts, which, at the time of said grant, extended over the territory now included within the boundaries of the State of New York. The province of Massachusetts subsequently sold these lands to Robert Morris of Philadelphia for the purpose of liquidating her proportion of the Revolutionary War debt. Robert Morris hypothecated the same to a company known as "The Holland Loan Company," whose business location was in the kingdom of Holland.

Mr. Morris having defaulted in payment of the amount borrowed, the Holland Loan Company sold to the "Holland Land Company" of the city of Amsterdam, in the republic of Batavia, the lands which were so ceded to the province of Massachusetts and subsequently sold to Mr. Morris as aforesaid. At this time the Seneca tribe were occupying lands in the county of Ontario in the province of New York, the dividing line between the province of Massachusetts and the province at New York was the water-shed of the Genesee.

On September 15, 1797, Mr. Jeremiah Wadsworth, on behalf of the United States, held a treaty or convention with the Seneca tribe of Indians, by the terms of which this tribe exchanged their lands in Ontario County, province of New York, for the lands belonging to the "Holland Land Company," then situated in the province of Massachusetts, and which were a portion of the lands so granted by James II, as aforesaid.

On the 30th day of June, 1802, an indenture was made between the sachems, chiefs, ond warriors of the Seneca Nation and the members of the Holland Land Company, by Joseph Elliott, their agent and attorney, by the terms of which a transfer was made to said company of the lands at that time Ontario County embraced the present counties of Ontario, Steuben, Genesee, Allegany, Cattaraugus, Chautauqua, Ni-

agara, Livingston, Monroe, Erie, Yates, Wayne, Orleans, Wyoming, and part of Schuyler, province of New York, in exchange for the lands now occupied by this tribe in the Cattaraugus and Allegany Reservations, which were then in the province of Massachusetts.

This indenture was ratified June 12, 1803. (See pp. 70, 71, 72, U. S. Stats., Vol. Indian Treaties.)

The Senecas have occupied these lands since 1797 up to the present date in commonalty.

In 1842 a treaty was entered into between the Seneca Nation of Indians and Thomas L. Ogden and Joseph Fellows, assignees under the State of Massachusetts, through Mr Ambrose Spencer, commissioner of the United States, by the terms of which the said Ogden and Fellows paid $202,000 to the said Seneca Nation of Indians for the right of pre-emption to the said reservations of Allegany and Cattaraugus. (See U. S. Stats., Indian Treaties, p 587, at Large.)

The title to these lands was never in the United States, but passed through the grant of James II to the province of Massachusetts, and by Robert Morris and the "Holland Loan Company" and the "Holland Land Company" to the Seneca Nation, with the view of preserving the same as homes for their families, having for the last half century adopted the habits and customs of the whites—erected churches and schoolhouses. They have maintained a community of interest in their lands in common rather than partition the same among individual members of their tribe. By this means, under wise regulations and rules of their own, they have managed to retain possession of their lands, which otherwise would, in the mutations of life and business, long since have passed from them.

ANDREW JOHN, Jr.,
HIRAM DENNIS,
HARRISON HALFTOWN,
Delegations Senecas, of New York.

WASHINGTON, D. C.,
January 17, 1882.

Amendment to the brief of facts and history of the Seneca tribe of Indians, respecting their reservation.

We beg leave to submit a correction of the following statement contained in the brief heretofore filed by us before your committee, which was inadvertently introduced therein. It is said that "in 1842 a treaty was entered into between the Seneca Nation of Indians, and Thomas L. Ogden and Joseph Fellows, assignees under the State of Massachusetts, through Ambrose Spencer, commissioner of the United States, by the terms of which the said Ogden and Fellows paid $202,000 to the said Seneca Nation of Indians for the right of pre-emption to the said reservations of Allegany and Cattaraugus." (See United States Statutes, Indian treaties, p. 587, at Large.)

This is a misstatement of what was actually done under said treaty, as will appear from the treaty above referred to, and the second section of the act of June 27, 1846. (9 Stats. at Large, p. 35.)

The treaty of 1842 was based upon the previous treaty of January 15, 1838, in which the New York Indians had agreed to convey to Ogden and Fellows four (4) reservations, to wit: Buffalo Creek, Tonawanda Cattaraugus, and Allegany Reservations for the sum of $202,000. This treaty was not executed, and the treaty of 1842 was substituted for it. By this latter treaty the Indians retained in their own possession the Cattaraugus and Allegany Reservations, and surrendered to Ogden and Fellows the Buffalo Creek and Tonawanda Reservations. (See sections 1 and 2 of said treaty, 7 Stats. at Large (Indian treaties), pp. 587 and 588). By section 3 of said treaty it is stipulated that such proportion of the said sum of $202,000 shall be paid for the two (2) reservations conveyed to Ogden and Fellows as the value of those two (2) reservations bore to the value of the whole, the amount to be determined by two (2) arbitrators, one to be appointed by the Secretary of War and one by Ogden and Fellows.

It appears by section 2 of the act approved June 27, 1846, 9 Stats., at Large, p. 35, that the amount "paid to the President of the United States under the treaty made with the Seneca Indians, of New York, in the year 1842, for the benefit of said Indians was $75,000."

ANDREW JOHN, Jr.,
HIRAM DENNIS,
HARRISON HALFTOWN,
Delegation Seneca Nation of New York Indians.

WASHINGTON, D. C.,
February 4, 1882.

[Forty-seventh Congress, first session.—S. 19.]

A BILL to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulations or by virtue of an act of Congress or Executive order setting apart the same for their use, the President be, and he hereby is, authorized, whenever in his opinion any reservation of such Indians is advantageous for agricultural purposes, to cause said reservation to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to the Indians located thereon in quantities as follows:

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section.

In case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *Provided*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the President, in making the allotments upon such reservations, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *And provided further*, That where the lands on any reservation are mainly valuable for grazing purposes an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

SEC. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, in not more than two parcels, according to the legal surveys, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within five years after the Secretary of the Interior shall direct that allotments may be made on a particular reservation, it shall be the duty of the Secretary of the Interior to direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

SEC. 3. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office.

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or Executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations, and when such settlement is made upon unsurveyed land the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto, and patents shall be issued to them for such lands in the manner and with the restrictions as hereinafter provided; and the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid by them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

SEC. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the

allottees: *Provided*, That the lands acquired by any Indian under and by virtue of this act shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable, and not subject to taxation, lien, or incumbrance, for the period of twenty-five years from the date of the patent, which said restrictions shall be incorporated in the patents when issued. And if any conveyance shall be made by any allottee of the lands set apart and allotted to him or her before the expiration of the time above mentioned, the contract shall be absolutely null and void: *And provided further*, That the law of alienation and descent in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent, alienation, partition, and distribution of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: *And provided further*, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase of such portions of its reservation that have not been allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress; and the moneys agreed to be paid shall be appropriated and paid to said tribe or invested for its benefit, as the case may be.

SEC. 6. That upon the completion of said allotments, and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no State or Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law.

SEC. 7. That the provisions of this act shall not extend to the reservations of the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles in the Indian Territory, it being understood, and hereby provided, that no rights of any Indian tribe to any of the lands in said Territory are to affected or impaired by this act.

SEC. 8. That for the purpose of making the surveys and resurveys mentioned in section one of this act there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars. The Secretary of the Interior is hereby authorized to select, with the consent of the parents or guardians, any number not exceeding fifty Indian boys between the ages of twelve and twenty years, and to send them to the Agricultural College of Colorado at Fort Collins, Colorado, there to be instructed in the primary branches of an English education and in agriculture; that special instruction shall be given to such pupils in agriculture by irrigation.

SEC. 9. That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained: *Provided*, That the President may, in his discretion, make allotment of land in severalty, as hereinbefore provided, to any one or more Indians, members of a tribe or band, upon the request of such Indian or Indians, irrespective of the action of such tribe or band; and when allotment of land shall be made to any Indian the head of a family, allotment shall be made to the members of such family as hereinbefore provided in cases where division is made among the members of an entire tribe or band.

[Forty-seventh Congress, first session.—H. R. 3180.]

A BILL to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where any tribe or band of Indians has been or shall hereafter be located upon any reservation created for their use, either by treaty stipulations or by virtue of an act of Congress, or Executive order setting apart the same for their use, the Secretary of the Interior be, and he hereby is, authorized, whenever in his opinion any reservation of such Indians is advantageous for agricultural purposes, to cause said reservation to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to the Indians located thereon, in quantities as follows: To each head of a family, one-quarter of a section; to each single person over eighteen years of age, one-eighth of a section; to each orphan child under eighteen years of age, one-eighth of a section; and to each other person under eighteen years of age now living, or who may be born prior to the date of the order of the Secretary of the Interior directing an allotment of the lands embraced in any reservation, one-

sixteenth of a section: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *And provided also*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the Secretary of the Interior in making the allotments upon such reservations shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *And provided further*, That where the lands on any reservation are mainly valuable for grazing purposes, an additional allotment of such grazing lands in quantities as above provided shall be made to each individual.

SEC. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, in not more than two parcels, according to the legal surveys, and in such manner as to embrace the improvements of the Indians making the selections: *Provided*, That where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided further*, That if any one entitled to an allotment shall fail to make a selection within five years after the Secretary of the Interior shall direct that allotments may be made on a particular reservation, it shall be the duty of the Secretary of the Interior to direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

SEC. 3. That the allotments provided for in this act shall be made by special agents designated by the Secretary of the Interior for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action.

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, or to any Indian agent, or special agent appointed for such purpose by the Secretary of the Interior, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such allotment is made upon unsurveyed lands the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as hereinafter provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

SEC. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees: *Provided*, That the title to all lands acquired by an Indian under and by virtue of this act shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable, and not subject to taxation, lien, or incumbrance, for the period of twenty years from the date of the patent, and until such time thereafter as the President may see fit to remove the restriction, which said restriction shall be incorporated in the patents when issued: *And provided further*, That if any conveyance be made by any allottee of the lands set apart and allotted to him or her before the expiration of the time above mentioned, the contract shall be void; and it shall be the duty of the Attorney-General, on the request of the Secretary of the Interior, to institute a suit to set aside such deed or conveyance, in order that the title of the allottee may remain intact: *And provided further*, That the law of alienation and descent in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered except as herein otherwise provided: *And provided further*, That it shall not be lawful for the Secretary of the Interior, at any time, to negotiate with any Indian

tribe for the purchase of such portion of its reservation, or any part thereof, as shall not be deemed necessary for the allotments of the members of such tribe, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the moneys agreed to be paid are appropriated and paid to said tribe, or invested therefor, as the case may be; but when so paid or invested, the lands so purchased shall be deemed and held to be public lands, and subject to sale and disposal as other public lands.

SEC. 6. That at any time subsequent to the completion and allotment of land upon any reservation as provided in this act, the Secretary of the Interior may, in his discretion, direct the unallotted lands in said reservation to be appraised by three competent, disinterested persons, whose compensation shall be fixed by him, in tracts not exceeding in extent one-eighth of a section, according to the legal subdivisions, at their actual cash value, which in no case shall be less than one dollar and twenty-five cents per acre; and should there be any improvements upon the lands to be thus appraised which were made by or for said Indians or for government purposes, the said appraisers shall appraise the said improvements separately; and upon the completion of said appraisement the Secretary of the Interior shall be, and hereby is, authorized to offer the same for sale, at private entry, at the United States land-office in the district where the lands are situate, to actual settlers thereon, at the appraised value thereof. Each purchaser shall have the qualifications of a preemptor under the requirements of existing pre-emption laws of the United States, and shall be entitled to enter, at their appraised value, of the lands designated as chiefly valuable for agricultural purposes, not more than one hundred and sixty acres in the aggregate, and an additional tract of forty acres of the land designated as chiefly valuable for its timber; and the purchaser shall pay one-third of the purchase price or appraised value of the lands designated as chiefly valuable for agricultural purposes at the time of the entry thereof, one-third in two years, and the remaining one-third in three years from the date of such entry, with interest at five per centum per annum, and the full appraised value of the timbered lands shall be paid at the date of entry: *Provided*, That any person entering or settling upon any of the lands embraced in said reservation subsequent to the first of January, eighteen hundred and , and prior to the issuance of a proclamation by the President giving notice that the same is open for settlement, shall forfeit all right to enter any land on said reservation: *And provided further*, That all persons who were actual settlers upon any of such Indian reservations prior to such lands being incorporated or included in any Indian reservation, either by treaty, act of Congress, or executive order, shall be entitled to perfect their title to such lands occupied by them under and in accordance with the existing public-land laws; and the value of the lands thus lost to the Indians shall be reimbursed to them in other lands or money, at the option of the government, by the United States, at the rate of one dollar and twenty-five cents per acre: *Provided further*, That the sixteenth and thirty-sixth sections in each township shall be reserved for school purposes, as provided in sections nineteen hundred and forty-six and nineteen hundred and forty-seven, Revised Statutes, and the United States shall reimburse the Indians therefor at the rate of one dollar and twenty-five cents per acre: *Provided, however*, That when any Indian has improvements on any such section which he or she desires to take as a several allotment, the State or Territory in which such reservations are situated shall be entitled to select new lands therefore from the public lands in such State or Territory outside of said reservations: *Provided further*, That any religious denomination which has established a mission station or erected houses of worship and instruction on any reservation prior to the proclamation of the President opening that reservation to actual settlers shall be entitled to purchase, in preference to all others, the land, not exceeding ten acres, upon which said buildings are situated, at their appraised value, and the same shall be patented to them in like manner as to actual settlers: *And provided further*, That actual settlers on such lands shall not be required to pay for any improvements placed thereon by them; and in case any lands sold under the provisions of this act shall have improvements thereon which have been appraised under the requirements therein, the appraised value of such improvements shall be paid at the date of entry, in addition to the appraised value of the land. Each purchaser, at the time of making his or her purchase, shall take and subscribe an oath or affirmation that he or she is purchasing said land for his or her own use and occupation, and not for another, and that he or she has made no contract or agreement whereby the title thereto shall, directly or indirectly, inure to the benefit of another: *Provided*, That the purchaser shall be required, within ninety days after the expiration of six months from the date of entry, to make satisfactory proof to the register and the receiver of the proper land-office that he or she had, before the expiration of said six months, entered upon and improved the said lands by the erection of a dwelling-house thereon, and such other improvements as shall establish a bona-fide intent on the part of the purchaser to make the same a permanent home: *Provided also*, That if default shall be made in any of the cash payments as hereinbefore

required, the person thus defaulting shall forfeit absolutely all payments theretofore made, and also his right to the tract for the purchase of which he has applied; and in all cases before patent shall issue for lands designated as chiefly valuable for agricultural purposes the purchaser shall prove at least one year's bona-fide residence thereon: *And provided also*, That any person being the owner of one hundred and sixty acres of untimbered lands, or who shall make entry under the homestead laws of the United States, or who has filed and settled upon and improved one hundred and sixty acres of untimbered lands of the United States, adjacent to any of said reservations, shall be entitled to enter not more than forty acres of the timber lands upon such reservation at the appraised value thereof, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided also*, That after two years from the date at which any of such lands shall be offered for sale, all lands not then sold shall be offered at public sale, through the United States land-office for the district where the land is situated, to the highest bidder, for cash only, at not less that the appraised value of the same, which shall in no case be less than one dollar and twenty-five cents per acre, in tracts not exceeding one hundred and sixty acres to any one person, where the lands are chiefly valuable for agricultural purposes; and where the lands are chiefly valuable for their timber and not for agricultural purposes, the character of the lands in all cases to be determined by the report of the appraisers, the same shall be sold, for cash, to the highest bidder, as herein provided, in tracts of not more than one hundred and sixty acres: *Provided also*, That no limit shall be fixed as to the amount of this character of land to be purchased by any one individual; notice of such sale to be given by public advertisement of not less than ninety days, in at least three newspapers having general circulation in the State or Territory where the sales are to be held; and all lands remaining unsold after said sale shall thereafter be subject to private entry, for cash only, at not less than the appraised value of the same: *Provided also*, That bids for tracts having improvements thereon shall state the price offered for both the lands and improvements; and in all cases the right of entry shall be in the first settler. And all controversies between settlers and purchasers in respect to their settlement and right of entry shall be heard and determined before the like officers and in the same manner as like contests are heard and determined under existing laws; and the Secretary of the Interior is empowered to make all needful rules and regulations concerning such contests.

SEC. 7. That the funds arising from the sale of such lands, after paying the expenses of the appraisement and survey or resurvey of the reservation, allotments, sale of such lands, and all expenses incident thereto, shall be invested in the four per centum bonds of the United States, for the benefit of the Indians belonging upon such reservation, the interest of which bonds shall be distributed to them annually, for their support, education, and civilization, in such manner as the Secretary of the Interior may direct.

SEC. 8. That the district courts of the United States within and for the districts of any State or Territory in which said Indians may be located shall have original civil and criminal jurisdiction until such time as they may become citizens of the United States, after which, and after the completion of the allotments and patenting of the land, said allottees shall be subject to the laws, both civil and criminal, in the State or Territory in which they may reside, subject, however, to all the restrictions contained in section five of this act with reference to alienation, taxation, lien, and incumbrance: *Provided*, That no Indian so settled upon an allotment shall be deprived of life, liberty, or property without due process of law, and no State or Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law.

SEC. 9. That whenever any Indian of the age of twenty-one years to whom an allotment has been made, who has six months previons thereto filed with the clerk of the district or circuit court of the United States a declaration of his intention to become a citizen of the United States, and to dissolve his relation with his tribe, appears in such court and takes the necessary oath, and proves to the satisfaction of such court, by the testimony of two citizens, that for five years past he has adopted the habits of civilized life, that he is a well-disposed person, and that he has sufficient capacity to manage his own affairs, the court may enter a decree or order admitting him to the rights of a citizen of the United States; and thenceforth he shall be entitled to all the rights and privileges and subject to all the duties and liabilities of other citizens of the United States, except as hereinbefore provided: *Provided*, That any such Indian shall be entitled to his distributive share of all annuities, tribal funds, and other property the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void.

SEC. 10. That the provisions of this act shall not extend to the five so-called civilized tribes in the Indian Territory.

SEC. 11. That for the purpose of making the surveys and resurveys, allotments, ap-

praisements, sales, and other expenses incident to carrying out the provisions of this act, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars.

SEC. 12. That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained.