



TO THE SETTLERS ON CROWN LANDS, GRAND RIVER, C. W.

FELLOW SETTLERS:

The adjourned enquiry before the Commissioners Messrs. Clench, Thorburn, and Bain, respecting our rights came on on the 2d inst. at Brantford; after two days and a half hard trial the Commissioners failed to prove a case against any of the parties. The Counsel for the defence Mr. Fraser, shewed all their proceedings from the beginning to be irregular. The testimony produced was scandalizing to a Court of Justice. An Indian who deliberately swore on oath before Mr. Thorburn that the Defendants were illegally in possession, admitted on cross examination that he believed so, but had not seen them for months on the lots in question. The manner in which the prosecution was conducted, backed by the Counsel for the Indian Department, and the manner in which the evidence was taken down for the settlers, determined our Counsel to leave the Court, and to refuse to appear before the Commissioners again. Having been present when the final cause for our Counsel leaving happened, I can only say that it once struck me as the only course which could be adopted by him, and which was unanimously approved of by all our fellow settlers present with myself. Mr. Fraser was understood to say in a short conversation with his clients after leaving Court that he foresaw this difficulty and that he had addressed the Governor General to the effect that it was not right that persons altogether connected with, and paid out of the Indian Department Fund, should be the constituted Judges of a question which involved the interests of persons out of whose funds they were paid, and in whose behalf they were the recognized Agents, and that the Settlers were firm in the belief that the utmost hostility was entertained against their just claims by every person connected with that Department, and that owing to some misunderstanding with the head Commissioner (Mr. Thorburn,) (who had been instructed by the late Lord Metcalfe, to "investigate and report upon each individual case for the final decision of the Governor General," and which instructions the Settlers de laud had not been complied with), that the Settlers had come to the conclusion that they could not expect that impartial trial and investigation which the justice of their case, and the helplessness of their situation demands. He was also understood to say that he had no doubt that the head of the Government would appoint a new Commission.

The proceedings of the Commissioners are taken under the Statute 2d Vic. chap. 15, which in the first place excepts persons holding possession by virtue of any lease; and further, the jurisdiction of the Commissioners under that Statute depending upon the fact whether the lands in question, are the lands "for the cession of which to her Majesty no agreement hath been made by the Tribes occupying the same." It is well known to all the Government Officers in the Indian and Crown Lands Departments, that all the Grand River Lands were surrendered to the Crown at a very early period by the Indians occupying the same, and claiming title thereto; they were surrendered for the purpose of the appropriation to the five nations of Indians who were driven from their Settlements in the present United States during the revolutionary war, and by them were subsequently surrendered

to the Government in 1841, for the purpose of sale, excepting only a certain Tract known as the Johnson Settlement, and which Tract has been subsequently offered for sale. The following is a copy of the Surrender of 1841, produced by the Commissioners pursuant to Notice served upon them.

SURRENDER.

The Chiefs and Warriors of the Six Nations Indians upon the Grand River in full Council assembled at Onondago Council House this 18th day of January, 1841. Having maturely considered the proposal made to them by Samuel Peter Jarvis, Chief Superintendent of Indian Affairs, contained in the annexed documents dated the 5th and 15th January, 1841. In full reliance and confidence in Her Majesty's Government that they will dispose of the property of the Six Nations Indians for the sole benefit of them and their posterity forever, according to the intent and meaning of the said annexed documents, and for no other purpose whatsoever to the best of their judgement; and also in full confidence and reliance upon Her Majesty's Government that they will not sell or dispose of in fee simple any portion of that tract called the Johnson Settlement, unless what is available to be sold as Town Lots in the immediate neighbourhood of the town of Brantford, without the assent of these Indians for whom the same was formerly reserved first being obtained.

Have and hereby do assent to Her Majesty's Government disposing of the lands belonging, and formerly reserved upon the Grand River for the Six Nations Indians for the sole benefit of the said Six Nations, and for the full and valuable consideration according to the best of their judgment, so as to preserve the benefit thereof for them the said Six Nations and their posterity for ever, and for no other purpose according to the intent and meaning of said annexed documents dated the 5th and 15th January, 1841, respectively.

In testimony whereof we Moses Walker, Jno. Smoke Johnson, Kanawate Kanakariatarie, Peter Green, John Whitecoat, and Jacob Fishcarrier being deputed by the said Six Nations in full Council assembled to assent to the same on their behalf, have hereto set our hands and seals this 18th day of January, 1841.

Signed, MOSES WALKER, [L.S.]

" JOHN S. JOHNSON, [L.S.]

" J. KANAWATE, Mark. [L.S.]

" KANAKARIATARIE, Mark. [L.S.]

" JOHN WHITECOAT, Mark. [L.S.]

" PETER GREEN, [L.S.]

" JACOB FISHCARRIER, [L.S.]

Signed, sealed and delivered in the presence of us, being fully interpreted by Mr. Martin, a subscribing witness to these presents.

Signed J. MARTIN, I. I. Dept.

" JAMES WINNETT, S. I. A.

" JNO. W. GWYNNE.

Certified a true Copy. Signed.

Geo. VARDON.

There was also produced two Letters writ-

ten by Mr. Jarvis, by command of his Excellency the late Lord Metcalfe, in the Spring of 1844, in one of which he distinctly declared "That the surrender to the Crown in 1841 was a wise measure and should have been strictly adhered to by the Indians, as the sale of these Lands would place them in a state of affluence—that the Indians have no right to expect that the Government will comply with their desire to remove indiscriminately from their Lands persons placed upon them (although without proper authority) by the Indians themselves—neither justice nor a due regard to the Indian interests require or would justify such a proceeding"—and in the other it is stated also, that should the Indians require any part of the north side of the River to be reserved from Sale, that they would be expected to give up an equal portion of Lands on the South side of the River in order that an arrangement might be effected with the Settlers thereon.—These two letters, it is in the evidence of Major Winnett and Dr. Digby, were read by the latter at the request of former at a public meeting of Settlers in Brantford, as an encouragement for the Settlers to proceed with their improvements,—and to confirm their opinion that they would eventually obtain Deeds for their Lands.

There is no doubt that the Government are morally bound to protect the Settlers, and at least to see that the full claims upon the Lands are discharged before ejection. Precedent, justice, equity and humanity demand of the Government this course—the claims and rights of myself and fellow-Settlers who are resisting the illegal proceedings of the Commissioners, require the investigation of an impartial tribunal, such as has ever been the glory of our noble constitution. It was this which was guaranteed by Lord Metcalfe's letter of Oct. 29th, 1845, to myself and G. Strong acting as a Deputation on behalf of the Settlers. This letter states, "1st. That it is not the intention of his Excellency to sanction the removal of the Settlers without affording to each of them the opportunity of establishing the claims which they may consider themselves to possess, either to the privilege of preemption of the Lands occupied by them, or 2nd, to the value of their improvements thereon."

And 1st, as to the opportunity of establishing our claims to preemption, the necessary documents to prove this, have, after two years earnest application, only just been wrung from the Heads of Departments by application to Earl Cathcart, through Mr. Fraser—and then as to the 2nd point, even if an impartial review of these documents failed to prove our preemption rights, Mr. Kirkpatrick's evidence on oath at Newport proves the value put upon them is just £1 per acre less than they could have been made for, and this is leaving roads, which manifestly are improvements, out of the question.—Our cause is a just one and must ultimately prevail, notwithstanding the unjust attempt which Head Clerks and others are making to blind his Excellency and to Burke our claims. Let us patiently and fearlessly await the result.

I remain fellow Settlers,

Yours ever faithfully,

F. J. CHESHIRE.

Hamilton, Dec. 15, 1846.