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INDIAN LANDS.

MEMORIAL of the Gore District Municipal Council to his Excellency Lord Elgin, Governor General, &c. &c. on behalf of the Settlers upon the Indian Lands, in the Townships of Tuscarora and Oneida.

TO THE RIGHT HONORABLE JAMES, EARL OF ELGIN AND KINCARDINE, K. T., Governor General of British North America, &c. &c. &c., in Council.

MAY IT PLEASE YOUR EXCELLENCY:

The Memorial of the Gore District Municipal Council,

RESPECTFULLY SHEWETH,

That your Memorialists have viewed with feelings of deep regret the proceedings instituted by the Indian Department against certain settlers on the Indian Lands in the Townships of Tuscarora and Oneida, believing them to be of unmitigated injury in their procedure and result to the Indians, the Settlers, and the District.

By these proceedings a large amount of the Indian Funds, instead of yielding a profitable return for the supply of their pressing wants, has been worse applied than if thrown away, in purchasing extensive improvements, evidently for no other purpose than their restoration to their original wilderness state; while the Settlers who abandoned their homes through fear of incarceration did not in most cases receive more than half their outlay, and those who remained have been constantly harassed by prosecutions of more than doubtful legality, and are now about to suffer by incarceration with felons in the common Gaol, the ultimate penalty of a Law which they, their legal advisers, and others who had examined the question, believe does not apply to their case, and the District is called on to be a party to carry out these extraordinary proceedings, by providing the necessary place of confinement, and burdening its revenues for their support during their incarceration.

Your Memorialists feeling a deep interest in all that concerns the happiness and prosperity, the peace and well being of the inhabitants, collectively and individually, of the District, believe that it will not be considered impertinent or out of place, by bringing under your Excellency's notice, the proceedings that have from time to time been adopted on this subject by the Government of Your Excellency's predecessors; and offering an opinion of the course which your Memorialists believe would most conduce to a satisfactory settlement of this important question, on just and equitable principles, and for the best interests of both the Indians and the Settlers.

On referring to the Provincial Statutes, it will be found that an Act was passed in the second year of Her Majesty's Reign, Cap. 15, for the protection from trespass and injury, lands appropriated for the residence of certain Indian tribes in the Province, as well as the unsurveyed Lands

River, and report to His Excellency the nature of the claims of the settlers, with the extent of the improvements made by them on these Lands, and on the receipt of their report, His Excellency in Council, adopted on the 27th November, 1840, the following order. "That all persons reported as resident settlers up to the date of the present order in Council be considered the first applicants, and entitled to the right of pre-emption for the space of six calendar months thereafter, at the rate fixed upon the Land, without paying for the value of improvements."

Your Memorialists next find that on the 18th day of January, in the following year, Sir George directed Mr. Jarvis, the Chief Superintendent of Indian Affairs, and Messrs. Gwynne and Winniett, aforesaid, to assemble the Indians in Council, and submit to them propositions for a cession of their lands to the Crown for sale, which was agreed to by the tribes—reserving only a few hundred acres near Brantford, called the Johnson Settlement, which were subsequently brought into market and disposed of. The surrender then made is in the following words: "The Chiefs and Warriors of the Six Nation Indians, upon the Grand River, in full Council assembled, at Onondago Council House, the 18th day of January, 1841, having maturely considered the proposal made to them by Samuel P. Jarvis, Esq., Chief Superintendent of Indian Affairs, contained in the annexed documents, dated the fifth and fifteenth day of January, 1841, in full reliance and confidence in Her Majesty's Government; that they will dispose of the property of the Six Nation Indians for the sole benefit of them and their posterity for ever, according to the true intent and meaning of the said annexed documents, and for no other purpose whatever, to the best of their judgement; and also, in full confidence and reliance on 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 Brantford, without the assent of those 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 the said Six Nations and their posterity, according to the intent and meaning of the said annexed documents, dated the 5th and 15th January, 1841. In testimony whereof, WE, the said Chiefs and Warriors, have hereunto set our hands and seals, at Brantford, this 15th day of January, 1841."

Act forthwith abandoned, and were never again revived until the appointment of the present Commission and the proceedings now enforced by them. Besides, as soon as the necessary plans were completed by the Surveyor General's department, a survey of the whole tract into lots, and an appraisement of each, were directed to be made, and after these were completed, the Lands in the Townships of Cayuga and Dunn which remained unsold, those in Seneca, Brantford and Onondaga, and subsequently about three fourths of those in the Township of Oneida, were declared by the Government open for sale, giving the right of pre-emption to the parties in occupation; thus so far establishing the validity of that instrument by the sale of the greater portion of the Lands in question. It also appears by the Eight Vic., Cap. 7, that the whole Indian reservation no longer retained that character, but was divided into, and declared Townships, for judicial, municipal, and all other purposes.

Your Memorialists again find that on the fourteenth November, 1843, Mr. Jarvis directed the publication of the following Letter, addressed to Edward M. Stewart, Esquire.

"INDIAN OFFICE, KINGSTON,
14th November, 1843."

"SIR,—In regard to those persons who have taken possession of lots of land and made extensive improvements, the right of pre-emption will be extended to them in all cases where practicable, and in no case will a stranger be permitted to purchase a lot in the possession of another person, but on the express condition of paying the occupants the full value of their improvements thereon. You will confer a favor by making this generally known to the settlers, for I have received information from several quarters that there are individuals along the River who have circulated reports with respect to the sale of these lands, calculated to alarm the people, and indeed to induce them to suppose the Government, at the instigation of the Indian Department, was disposed to deal harshly with them.

(Signed)

SAMUEL P. JARVIS."

From this letter, which the gentleman to whom it was addressed was directed to make generally known, it is evident to your Memorialists that strong inducement was held out by the Chief Officer of the Indian Department to those in possession of these lands to prosecute their improvements under the pledge that pre-emption right, and peaceable possession, would be assured to them,—but in bad faith to these unfortunate settlers it has now turned out that they are made the victims of the very

to your Memorialists that those who took unauthorized possession of Indian Lands before they were surrendered to the Crown, surveyed and appraised, and for the removal of whom the Second Vic. Cap. 15, as is stated in the preamble, was passed, have not only retained peaceable and uninterrupted possession of their improvements, but also had pre-emption rights secured to them by orders in Council, and ultimately were allowed to purchase the Lands they occupied, while others availing themselves of the altered character of these Lands, the encouragement held out to them by the parties having control, as well as the course adopted to others as already set forth, with other supporting circumstances, to provide homes for themselves and families have either been driven therefrom through fear of incarceration without adequate compensation for their outlay, or are now suffering or about to suffer the extreme penalty of a law generally considered inapplicable and of no force in their case, by the cession of the lands to the Crown for the purpose of sale.

Your Memorialists would now respectfully beg leave to venture an opinion for your Excellency's consideration, of the best means under the circumstances already detailed, of reaching a just and satisfactory settlement of the question. It is ascertained that the Lands from which proceedings are now in force to remove the settlers amount to upwards of Fifty Thousand Acres, which are chiefly situated in the Townships of Tuscarora and Oneida, of these a Block of Twenty-five Thousand Acres in the township of Tuscarora, where the Indians are chiefly, and the least number of whites located, should be reserved for the exclusive residence of the Indians, and when it is known that Five Thousand Acres is the extent of their partial improvements it is believed it will be seen the quantity proposed to be reserved will be ample for all the purposes of agriculture for the Indian tribes, who number about twenty-five hundred souls, would be able to set off fifty acres to each family of five. They should in the meantime be allowed to retain their present locations, not covered by the twenty-five thousand acres, until they sold out or exchanged with the white settlers residing within that block; and the latter should be allowed to hold, under lease at a rental, until such arrangement was effected, which your Memorialists are satisfied would be speedily brought about. The remainder of the land should be sold, giving the parties who have been removed pre-emption right to re-purchase their improvements, by which means they would be able to proceed to raise bread for themselves and

course which your Memorialists believe would most conduce to a satisfactory settlement of this important question, on just and equitable principles, and for the best interests of both the Indians and the Settlers.

On referring to the Provincial Statutes, it will be found that an Act was passed in the second year of Her Majesty's Reign, Cap. 15, for the protection from trespass and injury, lands appropriated for the residence of certain Indian tribes in the Province, as well as the unsurveyed Lands, and Lands of the Crown ungranted, and not under location, &c. By the first clause it is enacted "that it shall be lawful for the Lieutenant Governor from time to time, to appoint two or more Commissioners under the great seal of the Province, to receive information, and enquire into any complaint that may be made to them against any person illegally possessing himself of any of the aforesaid Lands, for the cession of which to Her Majesty no agreement hath been made with the tribes occupying the same, and who may claim title thereto" &c. After the promulgation of the above Act, His Excellency Sir George Arthur, who was then Lieutenant Governor of the Upper Province, appointed a commission to carry out and enforce its provisions, but after the imprisonment of one individual, and others were proceeded against, he was doubtless convinced of the propriety of adopting a totally different course, for your Memorialists find that in August 1841, M. Gwynne, associated with Major Winniett, one of the Commissioners, was directed to proceed to the Grand

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 the said Six Nations and their posterity, according to the intent and meaning of the said annexed documents, dated the 5th and 15th January, 1841. In testimony whereof, W. E. Moses Walker, John Smoke Johnson, J. Kannawate, Kanakariatirie Peter Green, John Whitecoat, and Jacob Fishcarrier, being deputed by the said Six Nations, in full Council assembled, to assent to the same, in their behalf, have hereunto set our hands and seals, this eighteenth day of January, 1841."

The foregoing document is witnessed by J. Martin, Indian Interpreter; Jas. Winniett, Superintendent Indian Affairs; and John W. Gwynne; and it appears to your Memorialists that if words are to be taken in their plain and obvious signification, they can have no other meaning here than a cession of the Lands occupied by the Indians, for Sale, "and for no other purpose." and consequently do not come under the provisions of the Act, the second Vic. Cap. 15., in part above recited, and indeed this seems to have been the view taken by Sir George Arthur's Government, for on obtaining this instrument of surrender, the Commission at once ceased—the individual imprisoned was immediately liberated, and all prosecution under the

From this letter, which the gentleman to whom it was addressed was directed to make generally known, it is evident to your Memorialists that strong inducement was held out by the Chief Officer of the Indian Department to those in possession of these lands to prosecute their improvements under the pledge that pre-emption right, and peaceable possession, would be assured to them,—but in bad faith to these unfortunate settlers it has now turned out that they are made the victims of the very policy from which that document was designed to exculpate both Mr. Jarvis and the Government, of which, as regarded the Indian Lands, he was the acknowledged organ. Your Memorialists also find that in 1841, and 1842, several letters passed from the Commissioner of Crown Lands to the parties now prosecuted for trespass, all tending in the highest degree to encourage them in the belief that they would be permitted to purchase the lots improved by them, but your Memorialists do not think it necessary to adduce farther evidence, to enable your Excellency to arrive at the conclusion that the Government and the Indian Department were much more blameable in the matter than the unfortunate settlers, who put faith in their acts and promises, and are now suffering for their misplaced credulity.

From a view of the whole case here presented, your Memorialists are indeed unable to reconcile the present harsh and ruinous proceedings against the settlers with strict justice, and that impartiality which it should ever be the character of a Government to maintain; for it is evident

thousand acres, until they sold out or exchanged with the white settlers residing within that block; and the latter should be allowed to hold, under lease at a rental, until such arrangement was effected, which your Memorialists are satisfied would be speedily brought about. The remainder of the land should be sold, giving the parties who have been removed pre-emption right to re-purchase their improvements, by which means they would be able to proceed to raise bread for themselves and the thousands of their famishing brethren at home. The Indian funds would be augmented by the sale of lands which are of no manner of use to them, and reimbursed in the sum of some ten or twelve thousand pounds, paid out for the large number of improved farms which are scattered over the Tract waste and useless; a monument of folly, and a disgrace to the intelligence and civilization of the age.

Failing to convince Your Excellency of the propriety of adopting the course now proposed for a final adjustment of the question; your Memorialists would respectfully, but earnestly entreat Your Excellency would be graciously pleased to take the matter into consideration, and adopt such other mode of relief, as Your Excellency may deem meet; and your Memorialists, as in duty bound, will ever pray.

Respectfully submitted,
JAMES LITTLE, Chairman.
JOHN WHITE.
JOHN MILLER.
JOHN O. HATT.
ROBERT HOLT.