

10299

OFFICE OF
Indian Affairs
Rec Feb 19

1901

38002-1900
54181-11

Int. Dept

Feb. 18/01

Refers letter from
Dept. Justice re-
turning papers rel.
to pick of land for
Carlisle school from
C. C. Kutz

(E 147)

wrap & give,

sects Part Reg 21. 1901

469-446

47-102

8089

DEPARTMENT OF THE INTERIOR
NOV 8 1900
INDIAN DIVISION

1868

DEPARTMENT OF THE INTERIOR
FEB 18 1901
INDIAN DIVISION

10299

Indian Office

Incl. No.

6

1901

R. T. T. (9)

Acting Commissioner.

A. O. Tonner,

Your obedient servant,

Very respectfully,

Your directions in the premises.

The return of these papers is respectfully requested with

after the said mortgage shall have been satisfied by the grantor.

That authority be granted to purchase and pay for the said land

that should receive his favorable opinion as to the

may be directed to make an investigation of said title.

the United States, with the suggestion that the Dis-

of title, as required by Section 209 of the Revised

to the Attorney-General for his written opinion as to

with these papers with the recommendation that they

indicated by Superintendent Pratt.

be paid in full prior to the final payment for the

The mortgage referred to in the abstract of title can

that it can be obtained after the purchase is made.

with Superintendent Pratt respecting the application

is in possession of the record of the goods.

of title can be recalled when the District

good submitted, as indicated on the margin in her-

attention is invited to the omission of the word

(COPY)

Refer in reply to the following:

Land
54181-1900

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, Nov. 7, 1900.

Your attention is invited to the enclosure of the ward
The Honorable *John D. ...*, as indicated on the margin in par-
111. The Secretary of the Interior. *... the District*

Sir:

By the Indian appropriation act approved May 31, 1900 (31
Stats., 242), Congress appropriated money for the purchase of ad-
ditional land for the Indian Industrial School at Carlisle, Penn-
sylvania, subject to the approval of the Secretary of the Inte-
rior, for which authority has heretofore been granted.

I now enclose a letter from Major Pratt, Superintendent
of said school, dated November 1, 1900, transmitting deed dated
October 26, 1900, from Christopher C. Kutz and Anna E., his wife,
conveying to the United States for \$20,000, 175 acres of land
described therein, with plat of survey and abstract of title.

The description of the land as given in said abstract is
such that it would be impossible to identify the several convey-
ances as representing the land described in the deed to the United
States, from a clerical examination in this office. In my opin-
ion it will be necessary that the U. S. Attorney for the District
of Pennsylvania in which the land lies shall make a personal ex-
amination of the records where the several deeds are recorded to
determine whether or not the land described in the several deeds
can be identified as the land conveyed to the United States.

R. F. F. (C)

Acting Commissioner

WASHINGTON Nov. 7, 1900.

Your attention is invited to the omission of the word "north" in the deed submitted, as indicated on the margin in pencil. This clerical omission can be rectified when the District Attorney makes his inspection of the record of the deeds.

I agree with Superintendent Pratt respecting the obtaining of the consent of the State of Pennsylvania to the purchase of this land, that it can be obtained after the purchase is made. The unsatisfied mortgage referred to in the abstract of title can be paid and marked satisfied prior to the final payment for the land, as indicated by Superintendent Pratt.

I submit these papers with the recommendation that they be referred to the Attorney-General for his written opinion as to the validity of title, as required by Section 355 of the Revised Statutes of the United States, with the suggestion that the District Attorney be directed to make an investigation of said title.

If the deed should receive his favorable opinion as to the validity of title, and is approved by you, I respectfully request that authority be granted to purchase and pay for the said land after the said mortgage shall have been satisfied by the grantor.

The return of these papers is respectfully requested with your directions in the premises.

Very respectfully,

Your obedient servant,

A. C. Tonner,

Acting Commissioner.

R.F.T.(G)

54181

OFFICE OF
Indian Affairs
Rec NOV 2

1900

61/2089



Indian Industrial School,

1368

Carlisle, Pa. Nov. 1



Pratt, R. H.,

Major 10th Cav'y, Supt.

Forwarding deed for Kutz farm,
brief of title, + rough tracing
3 inc.

Munton Nov 9-1900

E146

deeds pety Nov 7 1900
457-310

deeds Myn Pratt Nov 7 1900
457-277

Thompson

S

with 30284-01

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Indian Office
Incl No. 3

1901

46/13

54181

Department of the Interior,
INDIAN SCHOOL SERVICE,

Carlisle, Pa., Nov. 1, 1900.

To The Honorable,

The Commissioner of Indian Affairs,
Washington, D. C.

Sir :-

Referring to my letter of Aug. 3rd and your reply of Aug. 23rd marked "Education, Authority 67029", I have the honor to forward herewith the deed for the Kutz farm together with brief of title and rough tracing by the county surveyor showing that it corners on our present government land.

There has been quite a good deal of delay in making up the title because of the neglect of Mr. Kutz's lawyer. It was made out several weeks ago by Judge Henderson, a member of our Carlisle board of trustees, and Mr. Hayes, Mr. Kutz's lawyer, was to have it executed. Mr. Hayes is notoriously dilatory in such matters, but is somewhat excusable in this case having been away from home part of the time. The deed is made out by the vendor in accordance with the forms of the state of Pennsylvania, as required by your letter. There is no general statute in the state of Pennsylvania authorizing the granting of authority to the United States to purchase and hold title to land in the state, but in every case the state legislature has promptly granted such authority. This authority I obtained in the case of the Parker Farm purchased about fourteen years ago, and I have no doubt that within a few days after the convening of the legislature in January next I can secure authority for this transaction.

-2- Commissioner of Indian Affairs.

There is a mortgage on the farm of \$10,000. I will of course see that this is fully satisfied as well as all other obligations, if any should appear, before paying over the money. Indeed, the vendor verbally authorized me to take up the mortgage and pay him the balance. Inasmuch as the mortgage is drawing interest and the vendor claims that the title has already passed and he should be protected from an accumulation of interest, I trust that as soon as the examinations and assurances as to validity of title can be made, I may be advised and authorized to close the transaction. Judge Henderson does not think, nor does it seem to me necessary that we wait for the legislature to authorize the purchase, for this is a common occurrence in the experience of the government in reference to land for public buildings, and there has not been in any case, so far as I can find, the slightest objection, but always a prompt authorization act of the legislature.

Very respectfully,


Major 10th Cavalry, Supt.

Dictated(P)

Disintegrated.
Microfilm.

Asst. United States Attorney.

Gen. Whitaker, Treasurer.

Your obedient servant.

I have the honor to remain, with great respect,

Yr. Servant.

Major Pratt to the Commissioner of Indian Affairs, dated Oct.

the draft prepared by S. V. Brett, and the letter alluded to by

mitted with the deed, prepared by D. Webster Henderson, Reg.;

Christopher C. Katz and wife, with the brief of title sub-

dated Nov. 1900; the deed, dated Oct. 28, 1900, from

Commissioner of Indian Affairs to the Secretary of the Interior.

pared. I also enclose a copy of the communication from the

In addition to the brief of title which I have pre-

a copy of the Act, which I will forward to you.

Chief of the Bureau of Representation at Harrisburg, and obtain

and passage of the Act. I will, however, write to the resident

file to the question, but I have not the date of the title

has passed in Pennsylvania the United States to acquire ti-

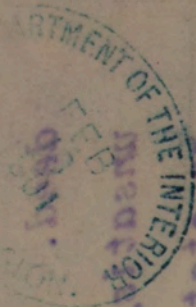
I am reliably informed that the legislature of Pennsylvania

Indian Affairs.

as stated in the letter of Major Pratt to the Commissioner of

mortgage above referred to should be satisfied.

At the time of settlement and delivery of the deed the



Indian Office
Incl. No. 2
1901
10299

1368

C O P Y
E. W.

Philadelphia, Pa., February 1, 1901.

The Honorable,

The Attorney General,

Washington, D. C.

Sir:

I have the honor to report that in accordance with your instructions of January 4, 1901, enclosing a letter from the Secretary of the Interior, together with his enclosures, I made a personal examination of the title to the tract of land in Cumberland County, Pa., containing 175 acres, proposed to be conveyed by Christopher Kutz and wife to the United States, for the use of the Carlisle Indian School.

I made careful searches of the records in Cumberland County, Pa., where the land lies, and find that the chain of title is as set out in the brief prepared by J. Webster Henderson, Esq., accompanying the letter of the Secretary of the Interior.

I prepared a brief of title commencing with the patents from the Commonwealth of Pennsylvania, setting out in each conveyance the description of the various tracts as contained in each of the several conveyances forming the chain of title. I have attached to the brief two drafts, which I have marked respectively B and C, having marked the draft submitted by Judge Henderson, draft A. I made these two drafts by tracing a draft

contained in the record of the partition proceedings of *Edward Armor v. George Sponsler, et al.*, August Term, 1820, No. 299, which is noted on page 7 of my brief, and a draft made in 1860, accompanying the deed of George W. Patton, Adm., to William Beettom, dated Oct. 23, 1860, and referred to on page 17 of my brief.

The descriptions contained in the various conveyances together with the drafts appear to sufficiently identify the various tracts included in the said conveyances as including parts of the land proposed to be conveyed by Kutzand wife. The slight variations in the courses and distances which occur are only such as usually occur in conveyances of farm lands where such conveyances are made, as in this case, in accordance with surveys made at different periods. The adjinders, however, are so well defined as to satisfy beyond the non-existence of adverse titles to any part of the tract caused by the variations in the courses. I made a personal examination of the land proposed to be taken, and found that the natural landmarks marking the boundaries are such as to preclude any question as to their location. The lines on the north, east and west sides are well defined by rows of trees of considerable growth, and the south boundary is formed almost in its entirety by the Letort Spring. The whole tract has been held in one title from 1860, the time of the deed to William M. Beettom, referred to on page 17, down to the present time, with

the exception of the severance by the two conveyances from Jacob Kutz and wife to Christopher Kutz, referred to on pages 19 and 20. I am of the opinion that Christopher Kutz has a good and sufficient title in fee simple to the land described in the proposed deed.

I noted the omission of the word "north" in one of the courses in the deed, and referred to in the letter of the Acting Commissioner of Indian Affairs, and on the third line below this omission, there is an omission of the word "east".

As the contents set out in the two conveyances to Kutz does not aggregate 175 acres, I suggested to the parties while in Carlisle that a new deed should be drawn in which the courses should be correctly stated and the words "more or less" inserted after the clause describing the contents. I further recommended that in the acknowledgement of the new deed the Recorder should recite only his official title as "Recorder of Deeds", and should sign the acknowledgement in that capacity.

A new deed was drawn in accordance with these suggestions, and after examination and approval by me, was executed. It is in the hands of Judge Henderson at Carlisle, who is acting in the matter for Major Pratt, the Superintendent of the Carlisle Indian School, and will be substituted for the deed which was heretofore submitted.

I made thorough searches for adverse conveyances, mortgages and judgments, and found that the only unsatisfied encumbrance is a mortgage of Christopher C. Kutz to Joseph S. Musser, recorded in Mortgage Book 38, page 290, dated April 5, 1898, to secure the payment of \$10,200, due April 1, 1899, with interest at five per cent. which mortgage is referred to on page 18 of Mr. Henderson's brief, and as stated in this brief, all other encumbrances mentioned in the chain of title, have been satisfied in full.

There is nothing, however, on the record to show that the premises are not subject at the present time to the reservation contained in the deed of Jacob Kutz and Sarah, his wife, to Christopher Kutz, dated May 17, 1870, and referred to on page 17 of my brief, subjecting the premises to the right of the said grantors and the survivor of them to occupy and use the house, stable and yards attached thereto for and during the term of their natural lives. I was assured by Judge Henderson that Jacob Kutz and his wife had been dead some years, but I would respectfully recommend that at the time of settlement an affidavit to that effect be obtained and produced. Certified searches for adverse conveyances, mortgages and judgments should be brought down to the date of the recording of the deed, and revenue stamps, to the amount of \$20, should be affixed to the said

deed. At the time of settlement and delivery of the deed the unsatisfied mortgage above referred to should be satisfied, as stated in the letter of Major Pratt to the Commissioner of Indian Affairs.

I am reliably informed that the Legislature of Pennsylvania has passed an Act authorizing the United States to acquire title to the tract in question, but I have not the date of the final passage of the Act. I will, however, write to the resident Clerk of the House of Representatives at Harrisburg, and obtain a copy of this Act, which I will forward to you.

copy here in [unclear]

In addition to the brief of title which I have prepared, I also enclose a copy of the communication from the Commissioner of Indian Affairs to the Secretary of the Interior, dated Nov. 17, 1900; the deed, dated Oct. 26, 1900, from Christopher C. Kutz and wife, with the brief of title submitted with the deed, prepared by D. Webster Henderson, Esq.; the draft prepared by S. J. Trett, and the letter addressed by Major Pratt to the Commissioner of Indian Affairs, dated Oct. 1, 1900.

I have the honor to remain, with great respect,

Your obedient servant,

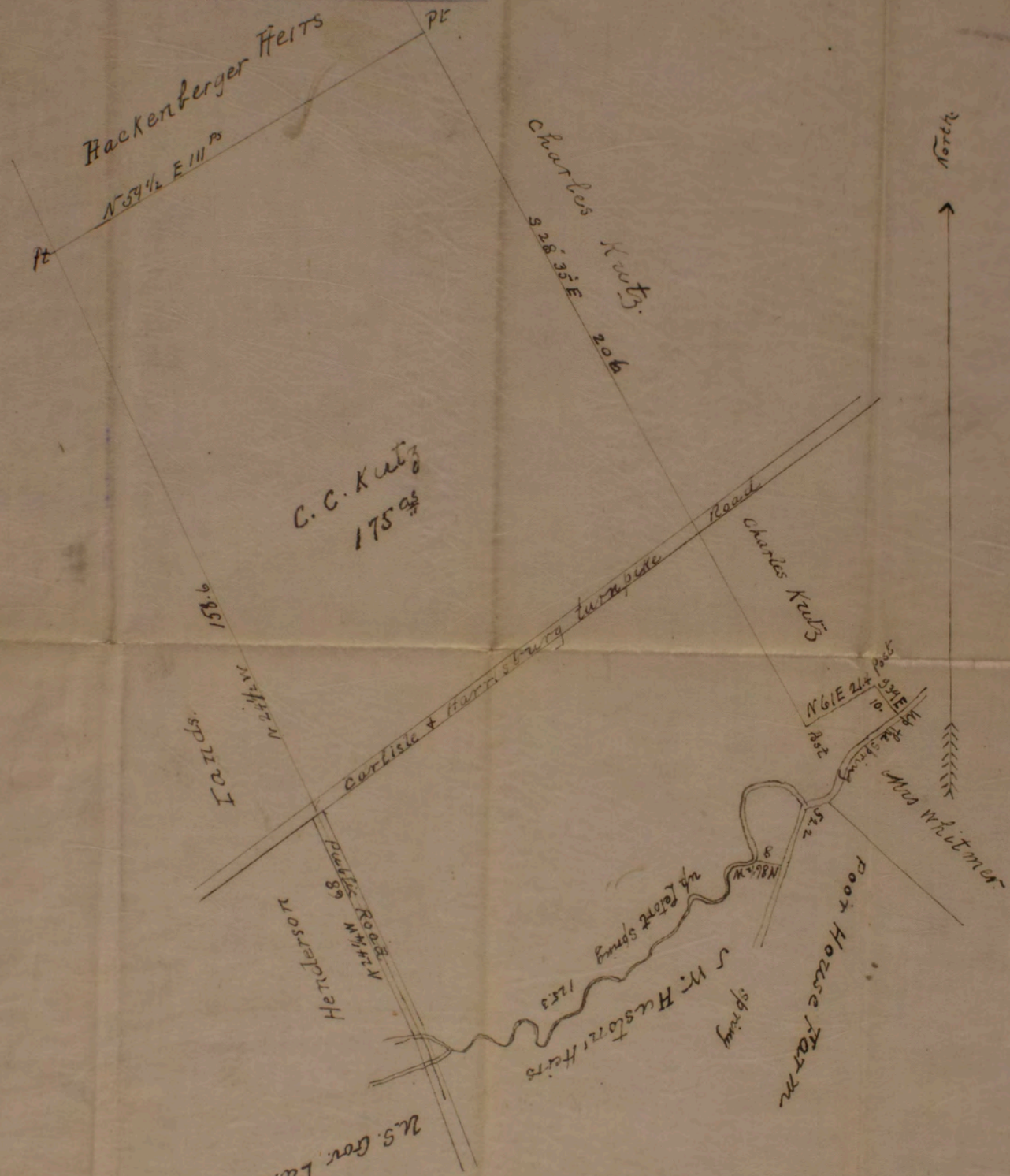
Jos. Whitaker Thompson,

Asst. United States Attorney.

Dictated.
Enclosures.

Indian Office
 Last No. 54181
 1900

Indian Office
 Last No. 8
 10333
 1901



Draft of a tract of land situated North Middleton
 and Middlesex townships containing 175 acres
 Constructed partly from survey made on the
 ground and partly from survey of Abram Lamberton
 made August 9th 1860, July 31st 1900
 S. J. Pratt.

Draft A.

1368

DEPARTMENT OF THE INTERIOR
INDIAN DIVISION
FEB 16 1901

10299

Indian Office

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1901

Incl. No.

Feb. 15/1901

Department of
Justice.

Returns papers re
purchase of land for
Carlisle School, from
C. C. Kitz.

I

Enc

I

CHIEF CLERK
FEB 16 1901

(See 8089/1900)
" 35/1901)

Department of the Interior,

FEB 18 1901

Respectfully referred to
the Commissioner of Indian
Affairs, *for proper*

action.

Hosmer
Acting Secretary.

~~Signature~~

A. J. B.

F. 16, 548-1900.

DEPARTMENT OF JUSTICE,

E. W.

In correspondence on this subject quote
the above initials and file number.

WASHINGTON, D. C.

February 15, 1901.

The Secretary of the Interior.

Sir:

I have the honor to return herewith the papers which were received with your letter to me dated the 9th of November last, relating to certain land sought to be purchased for the Carlisle Indian Industrial School under the provisions of the act of May 31, 1900, chap. 598. Accompanying these papers is a copy of a report subsequently made to this Department by the Assist. U. S. Attorney for the Eastern District of Pennsylvania, giving the result of a personal examination of the title to said land held by the proposed vendors thereof (Christopher C. Kutz and wife), with which report is a brief of such title prepared by him, and also a copy of an act of the Pennsylvania legislature granting the consent of the State to the purchase of the premises by the United States.

Among the papers is a deed to the United States executed by said Kutz and wife, which contains a defective description of the premises. The Assist. U. S. Attorney in his report states that a new deed has been executed correcting said description, which is intended to be substituted for the deed first mentioned.

The Secretary of the Interior, 2.

From the information furnished by the accompanying papers I am of opinion that the proposed new deed of said Christopher C. Kutz and wife to the United States, duly executed, acknowledged, and stamped, will be sufficient to convey to the government a valid title to the premises hereinabove mentioned; subject, however, to a certain mortgage for \$10,200.00, dated April 5, 1898, given by said Christopher C. Kutz to Joseph S. Musser, recorded in Mortgage Book 38, page 290. This mortgage should be satisfied, and the searches for adverse conveyances, mortgages, and other incumbrances be brought down to date of filing the deed for record, before payment of the purchase money.

I am, sir, very respectfully,

John R. Giff

Attorney General.

LEGISLATURE OF PENNSYLVANIA.

FILE OF THE SENATE.

No. 4 Session of
1901.

MR. MILLER, IN PLACE, JANUARY 15, 1901.

MR. HIGGINS, SPECIAL COMMITTEE, JANUARY 16, 1901.

AN ACT

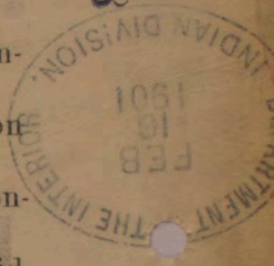
Granting consent of the Commonwealth of Pennsylvania to the United States for the purchase of a certain farm in the townships of North Middleton and Middlesex county of Cumberland to be used for the instruction in agriculture of the pupils of the Carlisle Indian Industrial School

1 Section 1 *Be it enacted by the Senate and House of Repre-*
2 *sentatives of the Commonwealth of Pennsylvania in General Assembly*
3 *met and it is hereby enacted by the authority of the same That*
4 the consent of the State of Pennsylvania is hereby given to
5 the acquisition by the United States under the laws of this
6 State of a certain farm or tract of land from Christopher C Kutz
7 situate in the township of North Middleton and Middlesex county of
8 Cumberland bounded on the west by Henderson's farm on the north by
9 Hackenberger's farm on the east by Charles Kutz's farm and on the
10 south by the Witmer farm County farm and Huston farm containing
11 one hundred and seventy-five acres more or less on which to instruct
12 the pupils of the Carlisle Indian Industrial School in the avocation of
13 agriculture and the said United States shall have and hold use
14 occupy and own the said land and exercise control over the same and

15 every part thereof subject to the restrictions hereinafter men-
 16 tioned the said consent is given and the said jurisdiction ceded upon
 17 the express condition that the State of Pennsylvania shall have con-
 18 current jurisdiction with the United States on and over the said
 19 ground or lands so far as that all civil process in all cases and
 20 such criminal or other process as may issue under the laws or authority
 21 of the State of Pennsylvania against any person or persons charged
 22 with any crime or misdemeanor committed within this State including
 23 said farm or tract of land may be executed therein in the same
 24 manner as if the consent had not been given or jurisdiction ceded
 25 except so far as such process may affect the real or personal
 26 property of the United States

1 Section 2 The jurisdiction hereby ceded shall not vest until
 2 the United States shall have acquired the title to said land
 3 and shall continue so long as the said land shall remain the
 4 property of the United States and no longer and the same shall be
 5 and continue while so held exonerated from all taxes assessments
 6 and other charges which may be levied under the authority of
 7 the State of Pennsylvania

1 Section 3 That any wilful injury to the grounds buildings or
 2 appurtenances aforesaid shall be punishable in any court of com-
 3 petent jurisdiction as like misdemeanors are now punishable under
 4 the laws of Pennsylvania



1368

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