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IN THE SENATE OF THE UNITED STATES.

AUGUST 14, 1893.—Referred to the Committee on Public Lands (to accompany S. 417),
and ordered to be printed.

Mr. COCKRELL presented the following

MEMORIAL OF CHAS. MOUSSO, PRAYING THE PASSAGE OF A LAW
TO PERFECT THE TITLE OF THE UNITED STATES TO THE TRACT
OF LAND LYING ON THE WEST SIDE OF LAKE PEPIN AND THE
MISSISSIPPI RIVER IN THE STATE OF MINNESOTA, WHICH BE-
LONGED TO THE HALF-BREEDS OR MIXED-BLOODS OF THE DA-
KOTA OR SIOUX NATION OF INDIANS.

The Congress of the United States of America:

Your petitioner, Charles D. Mouso, of Minneapolis, Minn., respect-
fully prays for the passage of the bill herewith presented.

A copy of an opinion of the Assistant Attorney-General for the
Department of the Interior, hereto attached and prayed to be taken as
part of this petition, sets forth the facts of the case, and suggests and
justifies your petitioner's application.

Very respectfully,

CHARLES D. MOUSSO.
By COUNSEL.

AUGUST 7, 1893.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, D. C., June 30, 1893.

SIR: I have the honor to acknowledge the receipt, by reference of
Acting Secretary Sims, of certain papers relating to Sioux Half-Breed
scrip, heretofore issued in the name of Charles Mouso, with a request
for an expression of opinion as to the legal questions therein involved.

Congress, by the act of July 17, 1854 (10 Stat., 304), made provision
to secure from the half-breeds or mixed-bloods of the Sioux nation of
Indians a relinquishment of their interest in the tract set apart as a
reservation for them by the treaty of July 15, 1830 (7 Stat., 330), and
to that end authorizes the issuance to them, upon the execution of
deeds of relinquishment of all their right in said land, of "certificates
or scrip for the same amount of land to which each individual would
be entitled in case of a division of the said grant or reservation pro
rata among the claimants," with the proviso that no transfer or con-
veyance of any of said certificates or scrip should be valid. The Pres-
ident was authorized to ascertain the number and names of the half-

breeds or mixed-bloods who were entitled to a share in said reservation.

On the census schedule reported February 9, 1856, the name Charles Musso appears as No. 290, and five pieces of scrip, No. 301, A, B, C, D, and E, two for 40 acres each, one for 80 acres, and two for 160 acres each, were prepared in his name. On February 27, 1857, James Shields was appointed a special commissioner to secure the deeds of relinquishment provided for in said act, and to deliver the scrip to the parties entitled thereto. The certificates made out in the name of Charles Musso were not delivered by said commissioner, but were, with other pieces, returned with his report. On December 10, 1860, the scrip which had not been delivered by said special commissioner was sent to the superintendent of Indian affairs at St. Paul, Minn., with instructions to give public notice that he held the same for delivery to the parties entitled thereto, or their attorneys or representatives.

A clerk in the office of the superintendent of Indian Affairs at St. Paul reported, under date of June 1, 1864, that certain scrip, including No. 301, had been delivered, and returned the cover and margins of the book containing the scrip, together with the relinquishments and evidence upon which it was delivered. It seems that scrip No. 301 was delivered to William S. Chapman, as attorney in fact for Charles Musso, upon a power of attorney purporting to have been executed by Musso on July 9, 1863, in Hennepin County, Minn., before Henry W. Cowles, a notary public, and in the presence of H. W. Cowles and M. Mouso as witnesses. The relinquishment of Musso's interest in the reservation is also executed by the attorney in fact, the power of attorney authorizing that to be done.

The scrip thus issued was, on March 1, 1864, located at Carson City, Nev., upon lands in that district, by said Chapman as attorney in fact, by authority of a power of attorney purporting to have been executed by Musso at the same time and place, before the same officer, and in the presence of the same witnesses as was the other power. Patents for the lands covered by these locations were issued on letter A, February 7, 1866, and on the other pieces on September 15, 1864. The various powers of attorney seem regular on their faces, and to have been properly executed, although signed by Musso by his mark.

The matter remained in this condition until April, 1892, when Charles D. Musso tendered a formal deed of relinquishment of his interest in said reservation, and presented his petition for certificates or scrip for four hundred and eighty acres of land in exchange therefor. In this petition, which is under oath, he states that he was registered as one of the half-breeds entitled to said scrip under the name of Charles Musso, No. 290; that he has never before executed any relinquishment of his interest in said reservation; that his father, Charles Musso, was a white man, and his mother an Indian woman of the Sisseton band of Sioux Indians; that as a boy he learned to read and write, and had never signed his name by a mark since the year 1849; that he went down the river with a raft to St. Louis, Mo., in the spring of 1855, that in September, 1861, he enlisted in Company B, Second Missouri Infantry, Confederate States Army; that he remained in service with his company until July 4, 1863, when he was taken prisoner at Vicksburg, and that he remained in Vicksburg a prisoner for ten days, until July 14, when he was paroled and went to Demopolis, Ala., where he remained until the spring of 1864, when he was exchanged and rejoined his company; that he was afterwards twice taken prisoner, and was finally paroled at Vicksburg; that he continued to live in

Alabama, naming the places, until the year 1885, when he returned to Minnesota; that he was never in Minnesota from June, 1855, until March, 1885; that he has written his name sometimes "Musso" and sometimes "Moussou."

In this statement he sets forth in detail, and with much minuteness, his life from his early boyhood, giving the names of many persons in Minnesota with whom he was acquainted before he left there. He further states that after his return he was told he had a claim to some land, and upon inquiry, learned that he was on the census list in question, and was entitled to scrip for 480 acres of land, and hence this application. With this petition are filed numerous affidavits in corroboration of the statements made therein, many of them being made by parties who knew Musso in Minnesota, and who positively identify the present claimant with the boy and young man they formerly knew, and who state that he was the only half-breed of that name, or of any name having a similar sound in that neighborhood, and who fully corroborate all the statements made by the claimant as to his life in Minnesota. In corroboration of his statements as to service in the Confederate Army, he files the affidavit of Hon. F. M. Cockrell, who says he first knew Musso in 1862; that they were in the same regiment; that this regiment was a part of the brigade afterwards commanded by affiant; that he remembers distinctly seeing Musso just prior to the operations around Vicksburg in the spring of 1863; that Musso was with his company and regiment during that campaign and siege, and was there surrendered on July 4, and marched out of Vicksburg as a paroled prisoner about July 11 to 14, and went to Demopolis, Ala., to a paroled camp, and that he recognizes a photograph of the claimant, attached to his petition, as a photograph of the Charles D. Musso he knew as a soldier. The claimant also files a litho-photographic copy of his parole, signed at Vicksburg July 6, 1863.

After this petition and affidavit had been filed this Department opened a correspondence with Mr. Chapman, who had procured said scrip under his power of attorney, to procure from him a statement as to the facts in the case. Among the papers submitted to me are several letters and copies of letters from him, some being addressed to the Department and others to Musso's attorney. In his letter of June 16, 1892, to the Department he states that in the years 1862 and 1863 he bought several lots of this scrip, making the purchases through a half-breed and a man connected by marriage with the Indians, to whom he paid a liberal commission; that these parties introduced him to the parties owning the scrip; that the Musso scrip was among the purchases thus made; that he bought, as he supposed, from Charles Musso in person, and never doubted that he executed the papers, and ends by asking the name of Musso's attorney, that he may write him on the subject. In a letter to Musso's attorney, dated November 10, 1892, after stating that he had submitted the matter to Mr. Gurnee, an attorney familiar with such matters, whose conclusions he incloses, he says:

As for myself, I have this to say: I believe Chas. D. Musso is entirely innocent of any wrong except the long and strange delay or neglect; this is unaccountable to me, but he is probably not a business man. My view of the case is this: Scrip should be issued to him. The Government would only do that by being paid for the land at the price at which the land is held. By presenting the case fairly and properly to the land committee and asking relief on ground of payment to the Government, so that no loss follows, there could be really no valid objection to the bill.

I will furnish the money to pay either at minimum or at double minimum rates, if you will put the bill through; besides this, I will aid all I can with our delegation in Congress.

"The proofs submitted establish the identity of the present applicant with the Charles Musso whose name appears upon the census roll of those having an interest in the reservation in question and entitled to scrip in proportion to the interest held, upon the relinquishment of that interest, as provided in the act of 1854, *supra*. They establish the further fact that the relinquishment heretofore presented and accepted as releasing all of Musso's interest in said reservation was not executed by him or by anyone authorized to act for him. They establish also the further fact that the scrip heretofore issued was not delivered to Musso, nor to one authorized by him to receive the same and receipt therefor in his name.

In short, they establish the fact that the instruments purporting to constitute William S. Chapman the attorney in fact of Musso to execute said relinquishment and receive and receipt for the scrip were never executed by Musso, but are forged and spurious instruments. This being true, it is clear that Musso still holds his interest in the lands formerly embraced in said reservation, which claim constitutes a cloud upon the title to the present holder of that land. This adverse claim should be removed, but the question arises as to how this end may be accomplished.

It must be remembered that patent was issued in Musso's name for the land upon which the scrip in question was located, and that patent is still outstanding. This being true, I seriously question the authority of this Department to reissue this scrip, or to issue new scrip until that patent has been duly canceled upon judicial decree, or until Congress shall have authorized the issuance of other scrip, and this, notwithstanding the clear, full, and convincing statements made in the affidavits filed, and the very satisfactory character of witnesses making these statements.

Doubting, as I do, the authority of the Department to grant the prayer of this petition, but being convinced at the same time of the justness of Musso's claim, and that the patents now outstanding on the certificates heretofore issued are illegal, I would recommend that the matter be submitted to the Attorney-General, with the request that he institute proceedings in the proper court to set aside and cancel those patents.

The papers submitted are herewith returned.

Very respectfully,

JOHN I. HALL,
Assistant Attorney-General.

THE SECRETARY OF THE INTERIOR.

