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Facts Regarding Title to Fort Hays Military Reservation

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Facts Regarding Title to
Fort Hays Military Reservation

June 1867, location selected by General Hancock, and troops transferred from some point southeast of Hays City.

July 1867, boundry lines surveyed and marked by 1st Lieutenant M.R. Brown, U.S. Corps of Engineers, Chief Engineer Department of the Mo.

July 23 to 29, 1867, subdivisonal survey of Township 14, Range 18, made by contractor Goodrich.

July 1868, after establishment of said reservation, the reservation ad declared, which included a part of townships 13 and 14 south, ranges 18 and 19 west, was surveyed under direction of the War Department.

August 28, 1868, executive order issued setting aside said reservation for use of War Department.

September 22, 1868, copies of plats of the reservation made by order of the President, transmitted to the U.S. Surveyor General of Kansas, with directions to "Lay down on the original township plats in his office the Fort Hays Reservation, calculate the areas of fractional sections made so by the location of the reservation, etc."

February 14, 1887, 90.49 acres of the reservation land transferred to the Ellis County Agricultural Society, under Act of June 11, 1884.

October 22, 1889, executive order issued transferring to the custody of the Interior Department the abandoned Fort Hays Military Reservation, for disposal under the Act of July 5, 1884.

November 6, 1889, order issued by the Secretary of the Interior in response to request from Hon. E.J. Turner, directing that "no action will be taken as to the disposal of the lands under the Act of July 5, 1884, until after Congress shall have had an opportunity of acting on the matter of sale and disposal."

August 3, 1894, Act of Congress approved, providing for the disposal of abandoned military reservations containing more than 5000 acres. This act provided in substance, that such reservations should be subject to settlement and entry, but that entries could not be made until after appraisement.

December 1, 1894, instructions issued relative to opening the Reservation to settlement and entry under the provisions of the Act of August 3, 1894.

March 22, 1895, order of the Secretary of the Interior, made at the request of Senator John Martin, withdrawing the Fort Hays Reservation from settlement and entry.

1895, Appeal of the Legislature of Kansas to representatives in Congress to secure the passage of an act donating the Fort Hays Reservation to the State of Kansas for the purpose of establishing a branch of the State

Agricultural College, a branch of the State Normal School, and a public park. (See Session Laws 1895, Page 552)

February 1897, Act of Congress donating Fort Hays Reservation to the State of Kansas for the purposes named above, which measure failed to reach President Cleveland in time for approval during the closing hours of his administration.

June 13, 1899, order issued by the Secretary of the Interior, vacating the order of withdrawal of March 22, 1895, and directing that the property of the Fort Hays Reservation be appraised with a view to its disposal under the Act of July 5, 1884, and again opening the lands to settlement under the Act of August 1894.

August 11 to 20th, 1899, general rush of homestead claimants to acquire the entire reservation lands under the homestead laws, all of which applications to enter were rejected by the officers of the Local Land Office.

August 24, 1899, further order of the Secretary of the Interior issued withdrawing Fort Hays Reservation lands from settlement and entry.

August 24, 1899, appeals prosecuted to the General Land Office from rejection of applications to make homestead entries. Some fifteen appeals were filed, the first of which was treated as a test case.

September 13, 1899, decision rendered by Hon. Commissioner of the General Land Office, sustaining action of the Local Land Office in rejecting homestead applications for land within the reservation.

March 28, 1900. Act of Congress approved, granting to the State of Kansas the Abandoned Fort Hays Reservation for the purposes of establishing an experimental station of the State Agricultural College, a branch of the State Normal School, and a public park, but with a provision that this act, "shall not apply to any tract within the limit of said reservation to which a valid claim has attached the settlement or otherwise under any of the public land laws of the United States." (U.S. Statutes at Large, page 52, chapter 110, 56th Congress).

July 26, 1900, decision rendered by the Interior Department reversing the decision of the General Land Office with reference to homestead entries for land within the reservation and directing that the applications of appellants be allowed.

January 30, 1901, application for review of departmental decision of June 26, 1900, denied by the Secretary of the Interior and said decision re-affirmed.

February 17, 1901, formal resolution of the Legislature of the State of Kansas, accepting the grant of March 28, 1900, and also making conditional appropriations for improvements. (See Session Laws, 1901.)

May 13 and 14th, 1901, application for review and rehearing of matter involved in departmental decisions of June 26, 1900 and January 30, 1901, presented on behalf of the State of Kansas and arguments in support thereof made before the Assistant Attorney General for the Interior Department at Washington.

May 14, 1901, application for rehearing granted, and an order issued by the Acting Secretary of the Interior directing that copies of the State's petition and of all exhibits in support thereof, be served on all parties in interest, and that such persons be allowed thirty days from such service to file such answers as they might deem necessary to protect their interests.

October 1901, final decision rendered by the Interior Department vacating and setting aside its former decisions on the subject and denying the right of homestead claimants to make entry of any of the lands.

It may be of interest to note that while it was finally decided that homestead claimants did not acquire any valid rights to any part of the lands by virtue of their applications filed at the local land office during the months of July and August, 1899, the land was in fact legally open to settlements from June 13, 1899 to August 24, 1899, and had the claimants resorted to actual bona fide settlement and residence upon the lands between said dates, and not to the filing of formal applications to enter under the homestead laws, they would have prevailed in their efforts to hold the land and the reservation would not have passed to the State for any purpose. The land was legally subject to settlement during the time named, and the provision contained in the Act of March 28, 1900, would have afforded ample protection to actual settlers. All of whom would have had a preference right to make homestead entry for six months after appraisement under the Act of August 3, 1894.