

6-19-1860

Report on Sioux Treaties

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IN THE SENATE OF THE UNITED STATES.

JUNE 19, 1860.—Ordered to be printed.

Mr. SEBASTIAN submitted the following

REPORT.

The Committee on Indian Affairs, in obedience to the following resolution of the Senate, to wit:

“IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES,
“February 14, 1860.

“Resolved, That so much of the treaties made between the United States and Sioux Indians, June 19, 1858, as requires further action on the same, be referred to the Committee on Indian Affairs, and that said committee be instructed to report thereon”—

Respectfully submit the following report :

Those portions of said treaties requiring the further action of the Senate are comprised in the second articles thereof, which are alike in substance and language, and by which certain questions are submitted to the Senate for its decisions. Those questions, and the material facts connected with them, together with the reason of their submission to the Senate, are briefly, but clearly, stated in the following extract from the late annual report of the Commissioner of Indian Affairs, dated November 26, 1859, pages 12 and 13 :

“These Indians are certainly deserving of every encouragement, and, as they need aid and assistance in their efforts to accomplish the great object of their civilization, their case is one which challenges the greatest liberality on the part of the government. And here it may not be improper to call attention to the questions submitted to the Senate for decision by the treaties negotiated with these Indians in June, 1858, and which were ratified on the 31st of March last, but without any decision having been made upon those questions.

“By the treaties of 1851, certain lands on both sides of the Minnesota river were reserved for their future homes. In acting upon those treaties, the Senate, by amendments thereto, rejected the provisions for those reservations, allowed the Indians ten cents per acre for the lands embraced therein, and required such tracts of country as should be satisfactory for their future occupancy and homes, to be given to them outside of the limits of the cessions made by the treaties, but with power to the President to vary, with the consent of the Indians, the

terms and conditions of said amendments as he might think proper. No location was found or offered to the Indians outside of the limits of the cessions, and they continued on the ceded lands, without a rightful home, until 1854, when permission was given them to occupy the lands originally reserved for them by the treaties, as a permanent home, until the Executive should deem it expedient to direct otherwise; whereupon Congress, on the 31st of July of the same year, authorized the President 'to confirm to the Sioux of Minnesota, forever, the reserve on the Minnesota river, now occupied by them, upon such conditions as he may deem just.' There was no formal act of confirmation, nor any conditions prescribed by the President under this law; but the reservations have since been regarded as the property and permanent home of the Indians, and the policy of the government towards them shaped and directed accordingly. My predecessor, in his annual report for the year 1854, says upon the subject: 'Congress having, at its late session, confirmed to these Indians the reservations originally intended for them by the treaties of 1851, measures were promptly adopted for concentrating them thereon, and for commencing a system of operations calculated to domesticate and improve them.' When, however, in 1858, the Sioux, realizing that there were more lands in the reservations than they needed, proposed to retain only those on the south side of the Minnesota, to be divided among them in severalty, and to dispose of those on the other side of the river, the question arose, whether they could properly be considered as having such a title thereto as gave them a just claim to be paid for them, or to have them sold for their benefit. This was considered somewhat doubtful, as they had already been paid for the lands under the amendments of the Senate to the treaties of 1851, at the rate of ten cents per acre. They contended, however, that these lands were given back to them in lieu of, and as an equivalent for, the home contemplated by the Senate's amendments, to be assigned to them outside of the limits of the cessions of 1851, but which was not done, and for no fault on their part; and that consequently they owned them, and were entitled to be fairly compensated for any portion of them which they might relinquish. Under these circumstances, and as the difficulty arose out of the amendments of the Senate to the treaties of 1851, it was agreed and stipulated in the treaties with them of 1858, to submit to that body for decision the question of their title to, and what compensation should be made to them for, the lands which they proposed to relinquish. 'Whether they shall be allowed a specific sum of money therefor, and, if so, how much; or, whether the same shall be sold for their benefit, they to receive the proceeds of such sale, deducting the necessary expenses incident thereto?' I would respectfully suggest the importance to the Indians of any early decision upon these questions, in order that they may not remain in a state of suspense, as to whether there will be additional means from this source to aid in improving their condition.

"In my judgment, an equitable arrangement would be to allow them the proceeds of the sales of the lands, deducting the cost of their survey and sale, and the ten cents per acre which they have received for them under the Senate's amendments to the treaties of 1851."

The same facts are more fully and elaborately set forth in the report

of the agent for these Indians, accompanying that of the Commissioner of Indian Affairs, pages 83, 84, and 85.

Under the treaties of 1851, as amended by the Senate, these Indians were entitled to have comfortable homes elsewhere, embracing at least an equal quantity of land; but it was found impracticable so to provide for them, and hence they were permitted to retain and occupy their present reservations. The act of July 31, 1854, authorized the Executive to confirm these reservations to them; and though there has been no formal act of confirmation, the proper department has considered them as confirmed to them, and has shaped and directed its policy towards the Indians accordingly, ever since the passage of that act. Such, also, has been the understanding of the Indians, and large sums of their money have been expended in opening farms and making improvements in various parts of the reservations, by which the lands have been greatly enhanced in value. Under these circumstances, the committee cannot hesitate to come to the conclusion that the Indians have acquired a just right to said lands, and that, consequently, they are entitled to be fairly indemnified for that portion of them lying north of the Minnesota river, which, by the treaties of 1858, they relinquish and surrender to the government.

The next question is as to the compensation which should be made to the Indians for the lands so relinquished and given up by them; "whether," in the words of the treaties of 1858, "they shall be allowed a specific sum of money therefor, and, if so, how much; or, whether the same shall be sold for their benefit, they to receive the proceeds of such sale, deducting the necessary expenses incident thereto."

Under ordinary circumstances, the committee would be disposed to recommend the adoption of the latter alternative; but considering the large expenditure of the funds of the Indians on the surrendered lands, by which their value has been much enhanced, that additional means are now urgently needed for completing their comfortable establishment on the remaining portions of the reservations lying south of the Minnesota river, and to aid and encourage them in carrying forward the remarkable change in their habits and pursuits which is now going on amongst them, the committee think that justice and good policy require that such additional means should at once be provided, by allowing them a fair equivalent in money for the relinquished lands. And considering that the lands are valuable, in consequence of their favorable location and superior quality, and have been rendered still more so by the improvements made upon them by and for the Indians, out of their means, the committee recommend that they be allowed at the rate of one dollar and twenty-five cents per acre for said lands, deducting the cost of their survey and sale, and the ten cents per acre allowed the Indians under the amendments of the Senate to the treaties with them of 1851.

In the investigation of this subject the committee have ascertained that after the treaties of 1858, the officers of the land department, under a misapprehension as to the situation of the lands in question, proceeded to survey them as a part of the public domain, and reported the surveys to the local land offices as such. This led to the belief

that they were open to settlement under the preëmption laws, and under this belief many persons have settled upon them in good faith and made valuable improvements, and who should be allowed the benefit of those laws.

It also appears that a small portion of the lower or eastern part of the reservation, retained by the Indians on the south side of the Minnesota river, was included in the public surveys, which were made anterior to the formal survey and establishment of the eastern boundary of the reservation. The surveys having been returned to the land office of the district in which the reserve is situated, and notice thereof given by the register as required by law, all the lands embraced therein were believed to be public land, and were commenced to be settled accordingly, and it was not, until the survey and establishment, in 1859, of the eastern boundary of the reservation, that the fact stated of a small portion of the reservation having been included in the public surveys, was ascertained. In the meantime some thirty or forty persons, with their families, settled thereon in good faith, and made valuable improvements in the expectation of securing homesteads for themselves under the laws granting preëmptions. The situation of these persons has been made the subject of a memorial from the legislature of Minnesota to the President of the United States, now before the committee, in which it is stated that some of said settlers had been allowed to enter their claims at the proper land office before the establishment of the eastern boundary of the reservation, and had paid the government therefor; and "that upon one of the claims thus entered and paid for a saw-mill, and other improvements, in addition to agricultural improvements of great value, have been made." And it is prayed, in the memorial, that steps be immediately taken to relieve the settlers by the purchase of the tract of land in question of the Indians; or, if that be not practicable, that the government "indemnify the white settlers upon said land for the improvements made by them, and the price paid by them for such lands as they have entered."

After mature consideration of the subject, the committee have come to the conclusion that the best way of settling the difficulty that has thus arisen, and, at the same time, of doing justice to the innocent settlers on the Indian lands, will be to authorize them to retain, with the consent of the Indians, a quarter section each of the land settled upon by them, to include their improvements, upon their paying the minimum value of one dollar and twenty-five cents per acre therefor. From the letter of the Commissioner of Indian Affairs to the chairman of the committee, hereto annexed, it will be seen that the department expresses its approval of this arrangement, and does not anticipate any difficulty in obtaining the assent of the Indians thereto.

The committee submit the accompanying resolutions for the consideration of the Senate, and respectfully recommend their adoption.

IN THE SENATE OF THE UNITED STATES.

JUNE 19, 1860.—Ordered to be printed.

Mr. SEBASTIAN, from the Committee on Indian Affairs, reported the following

PREAMBLE AND RESOLUTION.

Whereas by the second articles of the treaties of June 19, 1858, with the Med-a-wa-kan-ton and Wah-pa-koo-ta, and the Sisse-ton and Wah-pa-ton bands of the Dacotah or Sioux Indians, it is submitted to the Senate to decide as to the right or title of said bands of Indians to the lands embraced in the reservations occupied by them on the Minnesota river, in the State of Minnesota, and what compensation shall be made to them for those portions of said reservations lying on the north side of that river, which they agreed by said treaties to surrender and relinquish to the United States; "whether they shall be allowed a specified sum in money therefor, and, if so, how much; or whether the same shall be sold for their benefit, they to receive the proceeds of such sale, deducting the necessary expenses incident thereto;" and whereas said Indians were permitted to retain and occupy said reservations in lieu of other lands which they were entitled to under the amendments of the Senate to the treaties made with them in the year 1851, and large amounts of the money, of said Indians have been expended by the government in improvements and otherwise upon the lands contained in said reservations; and whereas by act of Congress of July 31, 1854, said reservations were authorized to be confirmed to those Indians:

Resolved, That said Indians possessed a just and valid right and title to said reservations, and that they be allowed the sum of thirty cents per acre for the lands contained in that portion thereof lying on the north side of the Minnesota river, exclusive of the cost of survey and sale, or any contingent expense that may accrue whatever, which, by the treaties of June, 1859, they have relinquished and given up to the United States.

Resolved further, That all persons who have in good faith settled and made improvements upon any of the lands contained in said reservations, believing the same to be government lands, shall have the right of preëmption to one hundred and sixty acres thereof, to include their improvements, on paying the sum of one dollar and twenty-five

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cents per acre therefore: *Provided*, That when such settlements have been made on the lands of the Indians on the south side of the Minnesota river, the assent of the Indians shall first be obtained, in such manner as the Secretary of the Interior shall prescribe, and that the amount which shall be so paid for their lands shall be paid into the treasury of the United States.

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