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Report on the Upper and Lower Bands of Sioux

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IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1874.—Ordered to be printed.

Mr. BOGY submitted the following

REPORT:

[To accompany bill S. 205.]

The Committee on Indian Affairs, having had under consideration Senate bill 205, beg leave to report as follows :

On the 19th of June, 1858, treaties were made in this city with the two bands of Indians (Upper and Lower Sioux) mentioned in this bill. The 3d and 8th articles of said treaties are :

ARTICLE 3. It is also agreed that if the Senate shall authorize the land designated in article two of this agreement to be sold for the benefit of the said Minakantow and Wahpakoota bands, or shall prescribe an amount to be paid said bands for their interest in said tract, provision shall be made by which the chiefs and head-men of said bands may, in their discretion, in open council, authorize to be paid out of the proceeds of said tract such sum or sums as may be found necessary and proper, not exceeding seventy thousand dollars, to satisfy their just debts and obligations, and to provide goods to be taken by said chiefs and head-men to the said bands upon their return : *Provided, however,* That their said determination shall be approved by the superintendent of Indian affairs for the Northern Superintendency for the time being, and the said payments be authorized by the Secretary of the Interior.

ARTICLE 8. Such of the stipulations of former treaties as provided for the payment of particular sums of money to the said bands, or for the application or expenditure of specific amounts for particular objects or purposes, shall be, and hereby are, so amended and changed as to invest the Secretary of the Interior with discretionary power in regard to the manner and objects of the annual expenditure of all such sums or amounts which have accrued and are now due to said bands, together with the amount the said bands shall become annually entitled to under and by virtue of the provisions of this agreement : *Provided,* The said sums or amounts shall be expended for the benefit of said bands at such time or times, and in such manner, as the said Secretary shall deem best calculated to promote their interests, welfare, and advance in civilization. And it is further agreed that such change may be made in the stipulations of former treaties, which provide for the payment of particular sums for specified purposes, as to permit the chiefs and braves of said bands, or any of the subdivisions of said bands, with the sanction of the Secretary of the Interior, to authorize such payment or expenditures of their annuities, or any portion thereof, which are to become due hereafter, as may be deemed best for the general interests and welfare of the said bands or subdivisions thereof.

At the time these treaties were negotiated the exact amount of the debts of the Indians was not known, and the amounts named in said third article were fixed by the representatives of the respective bands upon estimates which, at that time, were thought to be sufficient to liquidate all just demands that might be brought against them.

In 1860, under instructions from the Office of Indian Affairs, the matter was submitted to the chiefs and head-men by the superintendent of

Indian affairs for the Northern Superintendency, who reported, under date of February 13, 1861, as follows:

That on the 3d December last he received the determination of the chiefs and headmen of the Lower Sioux band of Indians. They first stated that there should be paid Henry Bellam one thousand dollars for services rendered their tribe at sundry times. They further requested that a full examination should be made of all the claims presented against them by me, in order that those only should be paid which were justly due from them. They stated that they desired it to be understood that this should include all debts owing by them up to date of that council, and should the \$70,000 set apart by them in the treaty of 1858 not be sufficient to meet the amount which, after a full examination of the claims presented against them, should be found to be due, that the surplus under the said article of the treaty, over the amount therein set forth should be appropriated to pay the amount over \$70,000, and that the remaining portion should be paid to them as their annuities are paid, in four annual payments. The Indians stated that their object in making this further request in regard to the payment of their debts up to date was in order that they might feel that their past engagements were all liquidated, and that no claims existed against their tribe, and that it would enable them to realize the money on their furs they had then and would obtain from their winter hunting, for which they had already received outfits on credit. On receiving this request from the Indians, the traders who had given credit to the Indians since the date of the treaty of 1858 presented their books and transcripts of all accounts they had against the Indians up to the date of the council.

In view, therefore, of this request and understanding by the Indians, I would recommend that their request, given me as above stated, be granted. I have understood that the Upper Sioux, after learning the determination of the Lower bands to pay all their debts up to this date, have desired that the same course should be pursued in regard to their obligations, but I have no official notification of that fact; they only requested of me that the amount specified by the treaty should be set apart for the payment of their debts. It has been represented to me that the Upper Indians have refused to permit their winter furs to be credited on the outfits usually given for the purpose of enabling them to make the same. I mention this fact for the information of the Department, as the claims filed against the Upper Sioux are to the date of the 24th November last, and should any allowance be made, it is only under the discretionary clause of the treaty as the cases now stand.

The superintendent (Cullus) was also instructed to make a careful investigation of the debts and obligations of the Indians, which debts and obligations consisted of claims of sundry persons lawfully engaged in trade with the Indians, and to report the same, with the result of his investigation, to the Indian Office. The claims investigated and reported by the superintendent under these instructions were thoroughly examined in the Office of Indian Affairs, and there were found to be due from said Indians to their creditors the following sums, viz:

From the Upper bands prior to the treaty of 1858	\$93,737 68
Subsequent to the treaty of 1858	12,734 92
From the Lower bands prior to the treaty of 1858	102,290 92
Subsequent to the treaty of 1858	34,150 47

After such examination by the Indian Office, the matter was, under date of May 30, 1864, submitted to Hon. Caleb Smith, the then Secretary of the Interior, who directed the payment of the debts of said Indians to the extent named in the treaties, viz, \$70,000 on account of each band, said sum to be paid pro rata to the claimants in full satisfaction of their respective claims.

On the amounts due from both bands prior to the treaty of 1858, there was actually paid to claimants on account of the Upper band the sum of \$69,365.88, and on account of the Lower bands \$69,046.37, leaving a balance in the first case of \$24,371.80, and in the last of \$33,244.56, the residue of the \$70,000 in each case being used for defraying the expenses incident to the investigation of the claims. The claimants accepted the amounts paid them under protest, and afterwards made application for the difference between the amount so paid and that found

to be due them by the Office of Indian Affairs. The Lower bands having also requested payment of their debts incurred subsequently to the treaty of 1858, and prior to the council held with them in 1860, the matter was, under date of August 8, 1861, submitted to Secretary Smith, who, by letter of August 27, 1861, directed payment of the same. Accordingly, these debts, amounting to \$34,150.47, as above stated, were paid to the extent of \$25,954.35, leaving a balance of \$8,196.12. The Upper bands not having made any request for the payment of their debts subsequent to the treaty of 1858, no action was at that time taken in regard to them; provision, however, was made by the fourteenth article of the treaty of 1867 for the payment of the amount, \$24,371.80, due from them, but said article 14, with others, were stricken out by the Senate, and consequently no further action has been taken in the matter.

The proceeds of the sale of the lands mentioned in the second article of said treaties of 1858, amounted, for the Upper bands, to \$170,880; Lower bands, to \$96,000.

On the 13th of June, 1870, Hon. J. D. Cox, the then Secretary of the Interior, in a letter to Hon. James G. Blaine, Speaker of the House of Representatives, stated:

The treaties were negotiated in this city, and several of the creditors of the Indians were present. The different bands were desirous that all their obligations should be canceled, and the sum named in the 3d article of the treaties was based upon an estimate which, at that time, was thought to be sufficient to cover all demands that might be made against them; but upon an examination of the accounts, which, after examination and abatement by the Indian Department, were allowed, it was ascertained that after the payment of the amount provided by the treaty to satisfy the indebtedness of the Indians at the date of the treaties, a balance of \$57,616.35 remained against them. In 1862, the Indians, parties to the treaties, commenced hostilities against the citizens of the United States, known as the Sioux Indian massacre, which resulted in the abrogation of all treaties with the Sioux, their removal from the reservations in the State of Minnesota, and the confiscation of their annuities. There is also due by the Lower bands of Sioux Indians the sum of \$8,196.12, being a balance of claims against them arising subsequent to the treaty of 1858.

He further states the action of Mr. Secretary Smith in making payment to the extent named in the treaties, viz, \$140,000, and its acceptance by the creditors under protest, and application afterward made to the Department for the balance due, and that it appeared that Mr. Secretary Usher was inclined to direct the payment, but there was no appropriation within the control of the Department applicable thereto.

After stating the action of the Senate in regard to the treaty of 19th February, 1867, Secretary Cox further says:

The parties to whom the balances are due are now applying to be paid. An examination of the case satisfies me that the claims are probably just, and should be paid; but there are no funds at the disposal of this Department that could be applied to their payment. I therefore respectfully invite the attention of Congress to the propriety of making an appropriation to meet these claims, for which the sum of \$65,812.47 would be necessary, to enable the Secretary of the Interior to pay to the parties entitled thereto the balances due the creditors of the Upper and Lower bands of Sioux Indians, on account of supplies furnished said Indians prior to the 3d day of December, 1860.

In regard to the annuities, &c., due these Indians under treaty stipulations—abrogated and annulled by act of Congress of February 16, 1863—the papers in the case show: That at the time of the passage of said act there were annual installments due and to become due to the Upper bands, in the aggregate amounting to \$2,584,000, besides a permanent fund of \$3,000,000, on which interest at 5 per cent. was paid them annually, and the difference between the amount, \$170,880, to be paid for the lands ceded by the treaty of 1858, and the sum, say \$70,000, paid

therefrom on account of the debts, &c., amounting to about \$100,000, and to the Lower bands an aggregate amount of annual installments due and to become due, of \$2,547,900, which said amounts would have been paid or be still due, in part, by the United States to said bands, had not their treaties been abrogated and their annuities forfeited by said act of February 16, 1863.

It further appears that there has been appropriated since the abrogation of the treaties for the payment of claims on account of deprivations committed during the massacre the sum of \$1,170,374, and for the removal and to subsist and care for them at their new homes, in round numbers, \$671,000, making, in all that has been appropriated for and on account of these Sioux, between the abrogation of their treaties and the making of new treaties with them, about the sum of \$1,841,374, which would leave a balance in favor of, or what would be due to, the Indians of about \$3,790,526.

The preceding statement of the facts in the case shows that these bands were desirous that these claims should be paid, and took such action in regard to them as was required by the provisions of the treaties, and that the Department of the Interior has twice, upon a full examination, stated that the claims are probably just, and should be paid, and has invited the attention of Congress to the propriety of making an appropriation to enable the Secretary of the Interior to pay to the parties entitled thereto the balances due the creditors of these bands of Indians, for supplies furnished prior to the 3d day of December, 1860. The Committee on Indian Affairs, therefore, recommend the passage of the bill.

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