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5-7-1890

Letter from the Acting Secretary of the Interior, transmitting, in response to a resolution of April 10, a report from the Commissioner of Indian Affairs in regard to the Pottawatomie Indians

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Recommended Citation

S. Exec. Doc. No. 112, 51st Cong., 1st Sess. (1890)

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L E T T E R

FROM

THE ACTING SECRETARY OF THE INTERIOR,

TRANSMITTING,

In response to a resolution of April 10, a report from the Commissioner of Indian Affairs in regard to the Pottawatomie Indians.

MAY 7, 1890.—Referred to the Committee on Indian Affairs.

DEPARTMENT OF THE INTERIOR,
Washington, May 3, 1890.

Sir: I have the honor to acknowledge the receipt of Senate resolution of 10th ultimo in the following words:

Resolved, That the Secretary of the Interior be directed to report to the Senate a complete statement in detail of any and all proceedings had in pursuance of the provisions of the treaty between the United States and the Pottawatomie Nation of Indians, made on the 15th day of November, 1861, and duly proclaimed on the 19th day of April, 1862, as modified by the supplemental treaty ratified April 26, 1866, and by the treaty of August 7, 1868; informing the Senate whether a census of said Pottawatomie Nation was taken as provided in said first treaty, and whether the members of the tribe were classified into separate lists, showing those desiring lands in severalty and those desiring lands in common, and, if so, the number shown on each list, and whether in distributing the share of the tribal funds belonging to those who took lands in severalty the number on the list as shown by such census was increased, and, if so increased, to what extent and by what authority, and whether any portion of the tribal funds or assets of the Pottawatomie Nation is still held by the United States, and, if so, what amount, and whether in cash or securities, and the amount of each, and what portion of said funds and assets so held properly belongs to the Citizen Band and what portion belongs to the Prairie Band, with his recommendation concerning the same.

In response thereto I transmit herewith copy of a communication of 28th ultimo from the Commissioner of Indian Affairs, to whom the matter was referred, which it is believed contains the information desired.

Very respectfully,

GEO. CHANDLER,
Acting Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 28, 1890.

SIR: I have the honor to be in receipt, by your reference of the 11th instant, for report, of Senate resolution requesting certain information regarding the Pottawatomie Nation of Indians. The resolution reads as follows:

Resolved, That the Secretary of the Interior be directed to report to the Senate a complete statement, in detail, of any and all proceedings had in pursuance of the provisions of the treaty between the United States and the Pottawatomie Nation of

Indians, made on the 15th day of November, 1861, and duly proclaimed on the 19th day of April, 1862, as modified by the supplemental treaty, ratified April 26, 1866, and by the treaty of August 7, 1868, informing the Senate whether a census of said Pottawatomie Nation was taken as provided in said first treaty, and whether the members of the tribe were classified into separate lists, showing those desiring lands in severalty and those desiring lands in common, and, if so, the number shown on each list, and whether in distributing the share of the tribal funds belonging to those who took lands in severalty, the number on the list as shown by such census was increased, and, if so, increased to what extent and by what authority, and whether any portion of the tribal funds or assets of the Pottawatomie Nation is still held by the United States, and, if so, what amount, and whether in cash or securities, and the amount of each, and what portion of said funds and assets so held properly belongs to the citizen band and what portion belongs to the prairie band, with his recommendation concerning the same.

In reply, I have to report as follows, viz:

By the second article of the treaty of November 15, 1861 (12 Stats., 1192), it is made—

the duty of the agent of the United States for said tribe to take an accurate census of all the members of said tribe and to classify them in separate lists, showing the names, ages, and number of those desiring lands in severalty, and of those desiring lands in common, etc.;

and by the third article of said treaty it is provided that—

At any time hereafter, when the President of the United States shall have become satisfied that any adults, being *males* and heads of families, who may be allottees under the provisions of the foregoing article, are sufficiently intelligent and prudent to control their affairs and interests, he may, at the request of such persons, cause the lands severally held by them to be conveyed to them in fee simple, with power of alienation; and may, at the same time, cause to be paid to them, in cash or in bonds of the United States, their proportion of the cash value of the credits of the tribe, principal and interest, then held in trust by the United States, and also, as the same may be received, their proportion of the proceeds of the sale of lands under the provisions of this treaty, etc.

By a supplemental treaty, dated March 29, 1866 (14 Stats., 763), the beneficial provisions contained in the third article of the treaty of November 15, 1861, were—

extended to all adult persons of said tribe without distinction of sex, whether such persons are or shall be heads of families or otherwise, in the same manner, to the same extent, and upon the same terms, conditions, and stipulations as are contained in said third article of said treaty with reference to males and heads of families.

In compliance with the second article of the treaty of November 15, 1861, a census of the Pottawatomie Indians was taken by the agent of the United States for said tribe, which census showed that they numbered twenty-one hundred and eighty persons.

Of this number fourteen hundred elected to become citizens of the United States, in compliance with the third article of the treaty of November 15, 1861, as modified by the treaty of March 29, 1866; and seven hundred and eighty decided to retain their tribal relations, and to hold their lands and their proportion of the tribal funds in common.

The following is a statement of the assets of the tribe at the time the census referred to was taken, viz:

Cash value of annuities per treaties of August 3, 1795; September 30, 1809; October 2, 1818; October 16, 1826; September 20, 1825; July 29, 1829; and June 5 and 17, 1846, capitalized.....	\$511, 150. 00
Money held in trust by the United States per 7th article of treaty of June 5 and 17, 1846 (9 Stats., 855)	643, 000. 00
Stocks held in trust:	
Indiana 5's	\$68, 000. 00
Missouri 6's	5, 000. 00
United States 6's	144, 200. 00
	217, 200. 00
Total of annuities, etc	1, 371, 350. 00

Pottawatomie lands were subsequently sold as follows, viz :	
Under the 11th article of treaty of February 27, 1867 (15 Stats., 532)	\$1, 014. 62
Under 2d article, same treaty, to Atchison, Topeka and Santa Fé Railroad	338, 766. 82
Interest on deferred payments received from said railroad company	101, 630. 05
	<u>\$441, 411. 49</u>
Total assets	1, 812, 761. 49

In order to carry out the provisions of the third article of the treaty of November 15, 1861, as modified by the treaty of March 29, 1866, and of the 6th article of the treaty of February 27, 1867 (15 Stats., 532), wherein it is provided that "where any member of the tribe shall become a citizen under the provisions of the said treaty of 1861, the families of said parties shall also be considered as citizens, and the head of the family shall be entitled to patents and the proportional share of funds belonging to his family, and women who are also heads of families, and single women of adult age, may become citizens in the same manner as males," this office reported to the honorable Secretary of the Interior, under the dates of May 12, 1868, February 12, 1869, February 10, 1871, and February 13, 1872, the names of certain members of the tribe who had elected to become citizens of the United States, based upon lists furnished by the agent and the business committee of the tribe, as provided by the 6th article of the treaty last referred to; and, in conformity to the wishes of said persons as expressed through the agent and the business committee, Congress appropriated funds, and authorized the sale of stocks belonging to the said tribe, for the payment of such members thereof as had elected to become citizens, as follows, viz :

By the act of July 27, 1868 (15 Stats., 213), for 600 persons, their proportion of the annuities and money in the Treasury	\$317, 655. 96
And authorized the sale of bonds amounting to	59, 779. 81
By the act of April 10, 1869 (16 Stats., 29), for 674 persons, as above ..	356, 863. 53
Bonds to be sold	67, 152. 66
By the act of March 3, 1871 (16 Stats., 559), for 250 persons, as above ..	132, 356. 65
Bonds to be sold	24, 908. 25
By the act of May 29, 1872 (17 Stats., 179), for 86 persons, as above ..	45, 530. 69
Bonds to be sold	8, 568. 44
Making a total for 1,610 persons of	1, 012, 815. 99

Of the amounts appropriated the following sums were paid to citizens, viz :

To 598 persons, act of July 27, 1868	\$316, 597. 11
Bonds sold for same, amounting to	40, 927. 34
To 670 persons, act of April 10, 1869	354, 745. 65
Bonds sold for same	45, 855. 04
To 250 persons, act of March 3, 1871	132, 356. 65
Bonds sold for same	17, 110. 09
To 86 persons, act of May 29, 1872	45, 530. 69
Bonds sold for same	5, 833. 84
Making a total paid to 1,604 persons	958, 956. 41

The \$68,000 Indiana stocks held in trust for these Indians were unavailable, for the reason that they had no quotable standing in the stock market, and for this reason the shares in the same, of the persons above named, were not sold, the Secretary of the Interior deciding that it would be to the disadvantage of said persons to sell the same at a heavy discount.

A portion of the funds appropriated to pay the citizens was in coin,

the premium on which, after being sold, together with the premium realized on the sale of United States bonds belonging to them, was paid to the said citizens. The amount thus realized and paid does not appear in the foregoing statement.

The share of the 1,610 persons provided for by the various acts of Congress, before referred to, in the proceeds derived from the sales of lands belonging to the Pottawatomie Nation, principal and interests, was \$325,996.57.

Prior to a final settlement with the said citizens, the Prairie Band of Pottawatomies protested against any further payments to the citizens until the differences existing between the two parties should be adjusted; the Prairie Band claiming that 210 persons had been paid their proportion of the tribal funds in excess of the number entitled to receive the same, thus reducing the shares of the Prairie Band to 570, instead of 780, the number which they claimed.

The citizen party being anxious to obtain the balance of the funds due to them, made an agreement with the Prairie Band, dated July 18, 1873 (see Ex. Doc. H. R., No. 21, Forty-third Congress, first session) whereby they agreed to a division of the tribal funds upon a basis of 1,400 citizens, and 780 Indians of the Prairie Band.

They also agreed "that the entire assets of the nation, as they existed at the time of the original enrollment under said treaty, are to be divided upon the foregoing basis."

They further agreed "that whatever amount of the common funds of the tribe has been drawn by the sectionizers, or citizen Indians, since and at the time of the original enrollment, under said treaty of 1861, in excess of the amount due them under said basis or ratio $\frac{1}{2} \frac{400}{180}$, shall be refunded to the Prairie Band out of the sectionizers' share of the funds now due or to become due to the tribe, applying their share of the school fund first, and the remainder to be paid out of any funds due said tribe, being that portion of the same accruing to the sectionizers or citizen Indians of the tribe."

In compliance with the terms of said agreement this office retained from the funds due the said citizens, being their share of the \$68,000 Indiana stocks, and of the proceeds derived from the sale of lands, an amount equal to the excess, which had been paid to them prior to the payment on final settlement, the amount retained being determined upon a calculation of 2,390 persons, the aggregate number of those who became citizens, and those claimed as comprising the Prairie Band.

The amount paid to the 1,604 citizens of the proceeds of the sales of lands (including \$7,200 appropriated to pay 90 persons, members of the tribe who were entitled to allotments of 80 acres of land each, the cash value of the same, the said amount to be re-imbursed from the proceeds of the sale of lands—act of May 29, 1872, 17 Stats., 179), principal and interest, was \$257,066.22, making total amount paid to said citizens \$1,216,022.63, and the amount retained (including \$1,812.70, being the share of 6 persons, provided for by the acts of July 27, 1868, and April 10, 1869, of the stocks and proceeds of lands who were not paid any portion of their dues), \$119,800.36.

The funds withheld from the citizen class were intended by this office to indemnify the Prairie Band for overpayments from the annuities and other tribal funds to the said citizens, but the Department under date of May 9, 1874, having decided that the said band was entitled to $\frac{7}{2} \frac{80}{180}$ of the entire tribal assets, the treaty annuities were increased by appropriations by Congress, from the amount due 570, to the amount

that would be due to the number decided to be entitled to the same by the Department, viz, 780.

The annuities previously withheld from the Prairie Band, amounting to \$11,117.96, were paid to said band to the extent of \$6,776.66, leaving a balance of \$4,341.30 still due them for the fiscal year 1874, for the payment of which there were no funds at the disposal of this office.

An estimate for said amount was prepared and forwarded to Congress, but upon which that body took no action. (See H. R. Ex. Doc. No. 69, Forty-third Congress, second session, page 17.)

The full share of said Indians in the sum derived from the sale of lands to the Atchison, Topeka and Santa Fé Railroad Company, amounting to \$121,210.15, less \$2,576.15, their proportion of the \$7,200 to be re-imbursed to the United States per act of May 29, 1872, was invested by the Department for their benefit, September 14, 1874.

From the foregoing it appears that the Citizen Band was paid the total sum of \$1,216,022.63, while under the decision of the Department and under the terms of the agreement above referred to, they were only entitled to receive the sum of \$1,164,158.75, showing clearly an overpayment to the Citizen Band of the sum of \$51,863.88. There are sufficient funds on hand, in cash, to make good this overpayment to the Prairie Band, were they entitled to it, but inasmuch as Congress, in 1875, increased by appropriation the principal sum to which the said band was entitled, under the said decision of the Department, the sum overpaid to the citizens, viz, \$51,863.88, now on hand and carried on the books of this office, is the property of the United States, and should be considered as an offset to the increased principal above referred to, and does belong neither to the Citizen or the Prairie Band of Pottawatomies.

As hereinbefore shown, there is still due to the Prairie Band the sum of \$4,341.30 on account of deficiency in annuities for the fiscal year 1874, and it is recommended that this item be incorporated in the general deficiency bill hereafter to be acted upon by Congress.

The Senate resolution is returned herewith.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

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