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Agreements with the Coeur d'Alenes

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1890.—Presented by Mr. MITCHELL, referred to the Committee on Indian Affairs, and ordered to be printed.

[To accompany bill S. 2828.]

LETTER OF THE SECRETARY OF THE INTERIOR TRANSMITTING
CORRESPONDENCE IN RELATION TO THE RATIFICATION AND
CONFIRMATION OF CERTAIN AGREEMENTS BETWEEN THE
UNITED STATES AND THE CŒUR D'ALENE INDIANS IN IDAHO
TERRITORY.

DEPARTMENT OF THE INTERIOR,
Washington, February 10, 1890.

SIR: I have the honor to transmit herewith, without consideration of the contents thereof by me, a copy of a communication of 8th instant, and its inclosures, from the Commissioner of Indian Affairs in reply to your letter of the 21st ultimo addressed to him in relation to a bill to ratify and confirm agreements between the United States and the Cœur d'Alene Indians.

Very respectfully,

J. W. NOBLE,
Secretary.

Hon. J. H. MITCHELL,
United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, February 15, 1890.

SIR: I have the honor to transmit herewith, without consideration of the contents thereof by me, a copy of a communication and accompanying papers of 12th instant from the Commissioner of the General Land Office in reply to your letter of 10th instant addressed to him in relation to a proposed bill to carry out certain treaties with the Cœur d'Alene Indians.

Very respectfully,

JOHN W. NOBLE,
Secretary.

Hon. J. H. MITCHELL,
United States Senate.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 12, 1890.

SIR: I have had the honor to receive a letter of the 10th instant from the honorable John H. Mitchell, of the United States Senate, inclosing papers having reference to a proposed bill to carry out cer-

tain treaties with the Cœur d'Alene Indians, requesting the return of the papers, with such suggestions as it might be deemed proper to make as to the manner in which the ceded lands mentioned in section 6 of the proposed bill should be disposed of. After an examination of the inclosed draught of a bill, I have to report that I see no reason why the lands referred to should not be disposed of under the general land laws of the United States. The sixth section of the proposed bill seems so to provide, with the exception of a certain tract proposed to be specially disposed of in favor of Frederick Post, in accordance with an understanding with the Indians, and I see no objection thereto.

I send herewith the papers inclosed by Mr. Mitchell with his letter.

Very respectfully,

LEWIS A. GROFF,
Commissioner.

Hon. JOHN W. NOBLE,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 8, 1890.

SIR: This office is in receipt of a letter, dated January 28, 1890, from Hon. John H. Mitchell, of the United States Senate, inclosing a draught of a bill for the ratification of certain agreements made with the Cœur d'Alene Indians, in Idaho, and making the necessary appropriations for carrying the same into effect, which he desires me to carefully examine, and return to him with such suggestions, if any, as I may have to make in regard thereto.

There are two agreements covered by the proposed bill, one made in pursuance of a clause in the Indian appropriation act of June 30, 1887 (24 Stat., p. 44), and the other of a clause in the Indian appropriation act of March 2, 1889 (25 Stat., 1002). Article 4 of the latter agreement provides that said agreement shall not be binding upon either party until the former agreement shall have been ratified by Congress.

I have examined the draught of a bill submitted by Senator Mitchell, and respectfully submit the following:

AS TO THE FIRST AGREEMENT.

Section 3 of the draft of bill appropriates the sum of \$30,000 as the first installment of \$150,000, provided for in article 6 of the first agreement, "for the building and erection on said Cœur d'Alene Reservation of a saw-mill and of a grist-mill, each to be operated by steam, for the paying the wages of the engineer, miller, and the employés to be employed in said mills, respectively," etc.

It is clear to my mind that the erection of but one mill, "a saw and grist mill," is contemplated in article 6 of the agreement. The provision of said article is that "there shall be erected on said reservation a saw and grist mill, to be operated by steam, and an engineer and miller employed, the expenses of building said mill and paying the engineer and miller to be paid out of the funds hereby appropriated."

I do not think this language can properly be construed to mean *two* mills—a saw-mill and a grist-mill.

The commissioners who negotiated this agreement, speaking upon this point, observe as follows:

These Indians had everything which they needed or wanted, or if not it was within their power to procure it, except a saw and grist mill. It was agreed that the con-

struction of this should be the first item of the expenditure, the cost of this to come out of the \$30,000, together with the pay of the engineer and miller. For the probable cost of the mill we beg leave to refer to our report as to the Spokane Indians.

Whenever, either in the agreement or the report of the commission, the word "mill," or "miller," or "engineer," is used, the singular number is employed.

Furthermore, the said draft of bill provides not only for payment of the wages of an engineer and miller, but of "the employés to be employed in said mills, respectively."

The payment of employés other than an engineer and miller is not provided for in the agreement.

It is the established custom of this Office to make annual estimates to Congress of money required to pay yearly installments due to the Indians under treaty stipulation or agreement, and Congress appropriates only so much as is required to pay such installment.

In the draft of bill presented it will be observed that the whole amount of the money consideration, \$150,000, is appropriated at once, all but the first installment of \$50,000 to remain in the Treasury and draw interest at the rate of 5 per centum per annum, the same (interest) to be paid to the Indians annually or expended for their benefit. While this plan would no doubt prove beneficial to the Indians, it is not in accordance with the terms of the agreement, but a very decided departure therefrom, providing as it does for the payment of the principal sum in fifteen annual installments of \$8,000 each after payment of the first installment of \$30,000.

Again. Article 11 of the agreement provides as follows :

It is further agreed that in addition to the amount heretofore provided for the benefit of said Cœur d'Alene Indians, the United States, at its own expense, will furnish and employ for the benefit of said Indians on said reservation a competent physician, medicines, a blacksmith, and carpenter.

Section 4 of the draught of bill submitted makes an appropriation for salaries for such employés and for purchase of medicines, but the appropriation is included in an appropriation of \$20,000 for other benefits not provided for in said agreement.

I think it would be better to have separate items of appropriation for each agreement, and that they should be in strict conformity with the terms of the respective agreements.

AS TO SECOND AGREEMENT.

The only strictly money consideration in the second agreement is in articles 2 and 3 thereof, as follows :

ARTICLE 2. And it is further agreed, in consideration of the above, that the United States will pay to the said Cœur d'Alene tribe of Indians the sum of \$500,000, the same to be paid to the said Cœur d'Alene tribe of Indians upon completion of all the provisions of this agreement.

ARTICLE 3. It is further agreed that the payment of money aforesaid shall be made to the said tribe of Indians pro rata or share and share alike for each and every member of the said tribe as recognized by said tribe now living on said reservation.

The draught of the proposed bill appropriates the amount stipulated to be paid to the Indians (\$500,000), but provides that \$80,000 thereof shall be retained in the Treasury of the United States and draw interest at the rate of 5 per centum per annum, to be expended for the benefit of the Indians as therein provided.

I do not doubt that it would be to the interest of the Indians to retain a portion of the money as proposed, but it is not so provided in

the agreement, and therefore I do not see how it could be done without first obtaining the consent of the Indians parties thereto.

The appropriation of \$20,000 made in section 4 of the draught of the proposed bill, except so much thereof as is for "pay for services of a physician, blacksmith, and carpenter" and for "purchase of medicines," is not provided for in either of the agreements, and is purely gratuitous.

Neither is the appropriation of \$5,000 made in section 5 of the draught for the survey and marking of the exterior boundaries of the reservation, etc., provided for in either of the agreements.

It is desirable, however, that houses should be provided for the accommodation of the agency employes, and that tools and materials should be purchased for the carpenter, blacksmith, and other artisan employes, as provided in the draught of bill submitted (section 4), and if Congress in its generosity will make the needed appropriation therefor I shall be very glad. The outboundaries of the reservation should by all means be properly defined by survey wherever not marked by natural objects, and I trust the appropriation of \$5,000 for that purpose will be made.

As to the disposal of the ceded lands, for which provision is made in section 6 of the draught of bill submitted, I have to state that it is a matter of no concern to the Indians themselves nor to this office how said lands are disposed of, since the Indians have no further interest in them, having ceded and relinquished them absolutely to the United States, subject of course to the ratification of the agreement by Congress.

I have caused to be prepared and herewith transmit items of appropriation which I respectfully suggest be substituted for sections 3 and 4 of the draught of bill submitted by Senator Mitchell.

As the law (section 2115, Rev. Stat.) provides that "whenever it becomes necessary to survey any Indian or other reservations or any lands, the same shall be surveyed under the direction and control of the General Land Office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed." I would suggest that the provision in section 5 of the draught of bill that the appropriation of \$5,000 for surveys "be expended under the direction of the Secretary of the Interior and Commissioner of Indian Affairs" be amended by striking out the words "and Commissioner of Indian Affairs."

I would further suggest that the draught of bill be referred to the General Land Office for examination and report as to the manner provided for the disposal of the ceded lands in section 6 thereof.

Senator Mitchell's letter and the accompanying draught bill are herewith returned.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.