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Uncompahgre and Uintah Indian Reservations

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IN THE SENATE OF THE UNITED STATES.

MAY 29, 1894.—Ordered to be printed.

Mr. SHOUP, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 1887.]

The Committee on Indian Affairs, to whom was referred the bill (S. 1887) providing for opening the Uncompahgre and Uintah Indian reservations, submit the following report:

This bill provides for making allotments in severalty to the Indians now occupying the Uintah and Uncompahgre reservations in Utah, and for opening to sale and settlement the reservation lands remaining after such allotments are made. The status of these reservations and the reasons for the policy indicated have been thoroughly canvassed in several reports of Congressional committees and of the various officials of the Interior Department, particularly in the report upon H. R. 6557, which is annexed hereto and submitted as a part of this report, and to which reference is made for a statement of the facts and of the considerations which explain the various features of the proposed measure. The bill, S. 1887, is a duplicate of that reported to the House of Representatives and recommended for passage by the Committee on Indian Affairs of that body.

For the reasons stated in the report referred to, your committee is of the opinion that the bill, as amended, be favorably reported and recommend its passage.

Amend section 1 by adding after the word "location," in line 22:

And provided further, That the stipulation contained in the treaty with the Ute Indians, ratified by act of Congress June 15, 1880, whereby the said Indians are obligated to pay for the lands allotted to them in severalty, be, and the same is hereby, waived by the United States, and the allotments provided for by this act shall be made without any price to be paid or charge to be made against any funds to the credit of said Indians.

The reason for recommending this amendment is that an effort to enforce the stipulation of the treaty of 1880 at this date would doubtless cause irritation on the part of the Indians, and might provoke resistance. While under the terms of that treaty a charge of \$1.25 per acre might be made against the funds of the Indians for the areas allotted to them, the fact remains that this obligation is very imperfectly, if at all, appreciated by the Indians, and that they have from their long residence upon their present reservation acquired a conviction that the lands belong to them.

In the twelve or fourteen years which have elapsed since the removal of the band from their aboriginal seat in Colorado, a new generation has come into the active management of tribal affairs, and to many of the band the treaty of 1880 is only a tradition, while occupancy of the Utah Reservation is a present fact. It is obviously quite natural, however unreasonable, that the Indians should feel themselves entitled to hold the existing reservation, and should object to making payment for the fraction of that reservation which they will be allowed to retain. Under these circumstances, it is submitted that it is a wiser policy to waive the right of the Government to payment for the lands allotted than to incur the friction, delay, and possible strife which might follow an effort to enforce the letter of the treaty.

Amend section 1, after the word "office," in line 25, by inserting—

Patents for the tracts allotted shall be issued to the several allottees in accordance with the provisions of the act of Congress regulating allotments to Indians in severalty, approved February 8, 1887.

The addition of this provision is recommended on the ground that the bill as it stands is silent as to the issue of patents, and, in the absence of specific authority for such action, there might be doubt as to the legality of giving the allottees proper muniments of title.

Amend section 2, line 3, after the word "the," by striking out the word "homestead" and inserting in lieu thereof the words "general land laws, town site."

The committee are advised that much of the land on this reservation requires irrigation, and the land should, therefore, be open to entry under the desert-land act, including homestead and all other existing land laws.

Amend section 4, line 11, after the word "shall," by inserting "be concurred in by two-thirds of the male members of the tribe over the age of 18 years, and."

This provision seems necessary in order to make certain what vote of the Indians shall be regarded as expressing the will of the tribe.

[House Report No. 660, Fifty-third Congress, second session.]

The Committee on Indian Affairs, having had under consideration House bill 4511, do hereby report the accompanying bill as a substitute therefor, and recommend that it be passed.

The substitute bill provides for the appointment of a commission of three persons to allot lands in severalty to the Uncompahgre Indians within their reservation in the Territory of Utah in accordance with the treaty made with said Indians in 1880, and make subject to entry the lands not needed for such allotments. The bill also authorizes the same commission to treat with the Indians upon the Uintah Indian Reservation in Utah for the cession to the United States of such lands within said reservation not needed for allotments to the Indians.

The Uncompahgre Reservation embraces an area of 1,933,440 acres, or 3,021 square miles of land, and is occupied by 1,021 Indians, or 1,893 acres to each Indian. Of these Indians 513 are males and 508 females, according to the census of 1890.

The Uintah Reservation, which is contiguous to the Uncompahgre, contains an area of 2,039,000 acres, or 3,186 square miles, occupied by 435 Uintah Indians and 398 White River Utes, a total of 833 Indians, being 2,450 acres to each Indian.

It has been estimated by the surveyor-general of Utah that 60 per cent of the lands within each of these two reservations is suitable for agriculture and capable of irrigation.

The rights of the Indians upon the Uintah Reservation differ from those of the Indians upon the Uncompahgre Reservation. The Uncompahgre Indians have no title to any of the lands within the reservation, nothing more than the privilege of temporary occupancy. Such is the conclusion arrived at after careful investigation

by the law officers of the Government. The Assistant Attorney General, Mr. Hall, in his report to the Secretary of the Interior dated October 23, 1893, says:

"As to the Uncompahgre title these Indians, with other bands of Ute Indians, were, by treaty of March 2, 1868, which was proclaimed November 6, 1868, given a portion of the Territory of Colorado for their absolute and unconditional use. These Indians had title to such lands as were thus given them in the State of Colorado, and the metes and bounds of their said reservation are set forth in said treaty of 1868 and the act ratifying the same. Subsequently, on the 6th of March, 1880, said Indians entered into an agreement with the United States whereby they ceded to the United States all their lands in the State of Colorado. This agreement was ratified by Congress on June 15, 1880 (21 Stats., 199), and subsequently, and within the time prescribed in said act of Congress, the agreements and amendments made thereto by the act of Congress were ratified by three-fourths of the male adult Indians. In the agreement of 1880 the following provision is found:

"The Uncompahgre to remove and settle upon agricultural lands on Grand River, near the mouth of the Gunnison River, in Colorado, if a sufficient quantity of agricultural land shall be found there; if not, then upon such other agricultural lands as may be found in that vicinity and in the Territory of Utah."

"These Indians were not placed on the lands referred to, 'on the Grand River near the mouth of the Gunnison River in Colorado,' because a sufficient quantity of agricultural lands could not be found for that purpose; hence, they were removed to the Territory of Utah, to the lands which they now occupy."

"The agreement of 1880 provided that the lands to which these Indians were to be removed was to be surveyed and divided among them in severalty, in certain specified quantities, for which purpose a commission was to be appointed by the President. They were removed from Colorado onto their present reservation in 1882. By executive order of January 5, 1882, the lands which they now occupy were 'withheld from sale and set apart as a reservation for the Uncompahgre Utes.'

"The act of Congress, approved June 5, 1880, which ratified the agreement with these Indians, required that the lands ceded to the United States should be disposed of as follows:

"None of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the homestead law, and when sold the proceeds of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then be applied in payment for the lands, at \$1.25 per acre, which may be ceded to them by the United States outside of their reservation in pursuance of this agreement."

"It will be seen from this provision of the act of 1880 ratifying the agreement, and which was accepted by the Indians, as hereinbefore stated, that the Uncompahgre Indians are to pay the United States for such lands as they may receive as allotments by virtue of said agreement, at the rate of \$1.25 per acre; and that the proceeds of the sale of their lands in the State of Colorado are to be held for this purpose, as well as for reimbursing the United States all sums paid out or set apart under the act of 1880. It is clear to my mind that the Uncompahgre Utes have no title to the lands they occupy; that they occupy these lands as a temporary reservation, until such time as the President may require them by virtue of the agreement and the act of 1880 to take their allotments within the limits of said reservation. When the lands are allotted to these Indians, then they will become absolute owners of the same, with such restrictions upon the right to lease and alienate as is set out in the agreement of 1880; but until their allotments are taken and the lands set apart for them in severalty, they have no such title to the lands as would authorize them to lease the same for any purpose."

By their agreement of March 6, 1880, these Indians agreed to accept allotments as provided in the substitute bill reported. This agreement was ratified by the act of Congress dated June 15, 1880 (21 Stat., 199). Under the agreement the Indians were to pay for the lands allotted to them at the rate of \$1.25 per acre. The accompanying bill omits this requirement, allowing the Indians to receive the allotment provided for without making such payment. The Assistant Attorney-General further says:

"I do not know of any other treaty obligations of the United States to the Uncompahgre Indians, except the duty of protecting them in their title to lands whenever the lands shall be allotted to them, as provided in the first article of the agreement of March 6, 1880 (21 Stat., 199 supra):

"That the Government of the United States cause the lands so set apart to be properly surveyed, and to be divided among these said Indians in severalty in the proportion hereinbefore mentioned, and to issue patents in fee simple to them respectively therefor so soon as the necessary laws are passed by Congress. The title to be acquired by the Indians shall not be subject to alienation, a lease, or incumbrance, either by voluntary conveyance of the grantee or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalien-

able and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President of the United States may see fit to remove the restrictions, which shall be incorporated in the patents when issued; and any contract made prior to the removal of such restrictions shall be void."

As to the Uintah Indians the Assistant Attorney-General finds that the Indians are the owners of the lands within the reservation, because, under the act of Congress of May 5, 1864 (13 Stat., 64), it was provided that the lands within the Uintah Reservation should be "set apart for the permanent settlement and exclusive occupation of the Indians." In order, therefore, to make available for settlement any portion of the lands within the Uintah Reservation it is first necessary to obtain the consent of the Indians residing thereon. Accordingly, the bill provides that the commissioners appointed shall treat with said Indians for the purpose of obtaining a relinquishment of their title to any land not needed for allotment to Indians.

These two reservations are situated in the northeastern portion of Utah, and together embrace a tract of about 4,000,000 acres, occupied by less than 2,000 Indians, men, women, and children. The Indians, in their present condition, make no use whatever of a very large proportion of these lands, which are rich in resources and capable of sustaining a large population if reclaimed and utilized.

If the consent of the Indians upon the Uintah Reservation can be obtained, by which they will accept allotments of lands in severalty, and the remainder of the lands is sold and the proceeds derived are used for the benefit of the Indians, their condition will be much better than it is at present. These Indians have already made considerable progress toward civilization, and are entirely competent to receive lands in severalty, and are in a condition to reclaim and improve them. If the residue of the lands are settled by whites the Indians will be more directly brought in contact with civilization and be able to make greater progress by the example thus afforded them.

As to the Uncompahgre Indians, as has already been shown, they have agreed to accept lands in severalty as provided in the bill. They are in a condition to adopt this mode of life. The proceeds of the sale of their lands in Colorado now amount to more than \$1,700,000. One-half of this amount is held and applied for the benefit of the Uncompahgre Indians. The Assistant Attorney-General in his letter to the Secretary of the Interior of February 16, 1894, says:

"As to the Uncompahgre Indians, I gave it as my opinion that they occupy the lands in Utah upon which they are located as a temporary reservation. They can be required at any time, by Congress or by the President, to take their allotments in said lands. As to these Indians, I can see no reason why their consent should be asked to any disposition Congress may see proper to make of these lands after allowing them allotment as provided in the agreement and act of Congress referred to in my opinion, a copy of which is hereto attached."

The Secretary of the Interior, in his letter of March 22, 1894, addressed to the chairman of this committee, speaking in regard to the Uncompahgre Indians, says:

"The confederated bands of Ute Indians, by agreement ratified by act of June 15, 1880 (21 Stat., 199), sold to the United States their reservation in Colorado and agreed to remove to other lands. It was further provided that the Indians might take allotments upon the lands to which they should remove, as follows:

"To each head of a family one quarter of a section, with an additional quantity of grazing land not exceeding one quarter of a section.

"To each single person over eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section.

"To each orphan child under eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; and to each other person under eighteen years of age, now living, or who may be born prior to said allotments, one-eighth of a section, with a like quantity of grazing land."

"It was also provided that the proceeds of the sale of the lands in Colorado ceded by said agreement should be 'first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then to be applied to payment for the lands at \$1.25 per acre which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement,' the balance to be deposited in the Treasury for the benefit of said Indians.

"Under this agreement the Indians were removed to their present location, but allotments have not been made. Afterwards, for their protection, the present reservation was designated by Executive order. It is clear that these Indians have no such title in the lands of this reservation as would entitle them to receive pay for such lands as might remain after they had taken their allotments, for which allotments they are required to pay \$1.25 per acre."

In respect to the rights of the Uintah Indians the Secretary uses this language:

"With regard to the Uintah Reservation the facts are somewhat different. I concur in the opinion of the Assistant Attorney-General that these Indians have a title

to the land which they occupy which should be acquired by the United States only by negotiations with them for that purpose. A commission might properly be authorized to conduct such negotiations on the part of the Government. There is sufficient agricultural lands in this reservation to provide allotments for all the Indians belonging there, and probably for those of the Uncompahgres who can not be provided for on their own reservation. The fact that it may be found necessary to settle some of the Uncompahgres upon the Uintah Reservation should be taken into consideration when negotiations shall be had as to the latter."

As to the method of disposing of the unallotted lands on these reservations, the Secretary of the Interior uses this language:

"The manner of disposing of the lands remaining after allotments shall have been made can be more satisfactorily determined after the question of allotments has been settled. If negotiations are to be had and money paid to the Indians the price at which the surplus lands are to be disposed of would be affected if not controlled by the amount to be paid to the Indians. It may be thought proper, however, because of the great value of deposits of asphaltum, gilsonite, and other like substances said to abound in these lands, to make a special provision for their sale at a higher price than is usually fixed for mineral land.

"My opinion at present is that the surplus lands which are agricultural in character should be opened to settlement under the homestead laws, with a provision for payment, in addition to the regular fees, of such amount per acre as will reimburse the United States for any money agreed to be paid the Indians, and that such lands as are mineral in character shall be disposed of under the mineral laws with a like additional payment."

It will thus be seen that in the substitute bill reported the committee have taken into consideration, as nearly as could be ascertained, the rights of the Indians upon the two reservations, and have conformed, as nearly as possible, to the suggestions and recommendations of the Secretary of the Interior both as to the method of dealing with the Indians and of disposing of the lands when thrown open to settlement.

It seems quite clear to the committee, from its investigation and the information received upon the subject, that legislation should be enacted without delay looking to the adjustment of the rights of the Indians and their settlement in such way that they may make progress toward civilization, and that the great resources, agricultural and mineral, which are known to exist within these reservations, should be made subject to development.