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RESTORATION OF ANNUITIES TO CERTAIN INDIANS.

FEBRUARY 18, 1898.—Ordered to be printed.

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

REPORT.

[To accompany S. 3698.]

The Committee on Indian Affairs, to whom was referred the bill (S. 3698) for the restoration of annuities to the Sisseton and Wahpeton bands of Dakota or Sioux Indians, begs leave to report the same with the following amendment, and a recommendation that it pass as amended:

SEC. 2. That the annuities of the Medawakanton and Wahpakoota bands of Sioux Indians, otherwise known as the Santee Sioux Indians, arising under and by virtue of the treaties with them of September twenty-ninth, eighteen hundred and thirty-seven, and August fifth, eighteen hundred and fifty-one, between said bands of Indians and the United States, which annuities were declared forfeited by the Act of Congress approved February sixteenth, eighteen hundred and sixty-three, be, and the same are hereby, restored to said Indians and their descendants residing in the United States, to the full extent and effect as if said Act of Congress attempting to forfeit the same had never been passed, all of said annuities so restored to commence from the last payment of the same actually made and not diverted to other uses under any of said treaties and to continue until the expiration of the same by the terms of said treaties; and the Secretary of the Interior is hereby directed to state an account between the United States and the said bands of Indians, giving them credit for the unpaid installments of annuities arising under and by virtue of the above-named treaties made with them, and charging them under and by virtue of said treaties since the passage of said Act of Congress of February sixteenth, eighteen hundred and sixty-three, and the amount, if any, found due them under and by virtue of the treaties of August fifth, eighteen hundred and fifty-one, up to and including the first day of July, nineteen hundred and two, and the amount, if any, found due them by virtue of the said treaty of September twenty-ninth, eighteen hundred and ninety-eight, shall be placed to their credit on the books of the Treasury, of which amount found due and placed to their credit as herein provided there shall be, and hereby is, appropriated the sum of three hundred thousand dollars, to be immediately available, and out of which sum so appropriated the Secretary of the Interior shall pay attorneys' fees on the amount found due said Indians and placed to their credit on the books of the Treasury in accordance with contracts with said Indians approved by the Secretary of the Interior, and on file in the office of the Commissioner of Indian Affairs, and the balance of the sum so appropriated remaining after paying attorneys' fees as herein authorized shall be paid per capita to said Indians, and the balance of the amount found due to said Indians and placed to their credit on the books of the Treasury as herein provided and not hereby appropriated shall bear interest at the rate of four per centum per annum, and shall

at all times be subject to appropriation by Congress for the use and benefit of said Indians: *Provided further*, That this Act, and all its benefits, shall apply to and include all Dakota or Sioux Indians who were members of said Medawakanton and Wahpakoota bands of Dakota or Sioux Indians at the time of the making of said treaty of August fifth, eighteen hundred and fifty-one, and their descendants, whether of the full Indian or mixed blood, who are living in any part of the United States.

Previous reports have been made by the Committee on Indian Affairs to the Senate in behalf of measures identical with the one covered by this report. In addition to the arguments contained therein, your committee desire to submit the following:

The reason given for the passage of the act of 1863 was that these Indians had rebelled against the United States, and had killed quite a large number of settlers in the State of Minnesota. It is true that a portion of these bands, the unruly and restive young men, went upon the warpath and committed frightful atrocities; but it is also true that the main body of these Indians did not engage in those depredations, but did everything in their power to restrain their younger men, and 275 of them fought against their own people, enlisting in the Army of the United States for that purpose. They enlisted as scouts under General Sibley; pursued the hostile Indians, and recaptured and returned from captivity many of the women and children who had been taken by the hostile Indians.

It seems to your committee that we are punishing this large body of friendly Indians unjustly. The act of 1863 was passed, in fact, because the people were aroused at the great outrages which had been committed; for Indian warfare is exceedingly savage and cruel. Without discrimination we proceeded to punish all the Indians in the State of Minnesota except the Chippewas. The Winnebagoes were living down near Blue Earth, far within the lines of settlement, and were entirely peaceful and peaceable. They enlisted with the Minnesota troops to repel and suppress the outbreak, but they were punished with the rest—taken by force and driven from their homes. The State of Minnesota passed laws for punishing those people. Your committee have no criticism to make upon Minnesota for doing so.

There was at that time a great feeling of alarm. So excited were the people that they believed that the bands of Indians were large enough not only to overrun Minnesota, but also Wisconsin. The Indians engaged did not number more than three or four hundred. Twenty-nine of them were hung at Mankato for their participation in the outbreak. The others who were hostile were taken to Fort Snelling, retained as prisoners, and frightfully punished. Afterwards they were taken to Keokuk, Iowa, and finally returned up the Missouri River to Nebraska, to meet others of the tribe who had been taken across the country to Nebraska. Those who had been taken across the country were men not engaged in the massacre, while those who were taken to Keokuk were women and children, the Indian men themselves having escaped to British America or been killed.

Realizing the injustice we had done, President Johnson made a treaty with these people in 1867, and in that treaty it recites:

Whereas it is understood that a portion of the Sisseton and Wahpeton bands of Santee Sioux Indians, numbering from 1,200 to 1,500 persons, not only preserved their obligations to the Government of the United States during and since the outbreak of the Medawakantons and other bands of Sioux in 1862, but freely periled their lives during that outbreak to rescue the residents on the Sioux Reservation, and to obtain possession of white women and children made captives by the hostile bands; and that another portion of said Sisseton and Wahpeton bands, numbering from 1,000 to 1,200 persons, who did not participate in the massacre of the whites in

1862, fearing the indiscriminate vengeance of the whites, fled to the great prairies of the Northwest, where they still remain; and

Whereas Congress, in confiscating the Sioux annuities and reservations, made no provision for the support of these the friendly portion of the Sisseton and Wahpeton bands, and it is believed [that] they have been suffered to remain homeless wanderers, frequently subject to intense suffering from want of subsistence and clothing to protect them from the rigors of a high northern latitude, although at all times prompt in rendering service when called upon to repel hostile raids and to punish depredations committed by hostile Indians upon the persons and property of the whites; and

Whereas the several subdivisions of the friendly Sisseton and Wahpeton bands ask, through their representatives, that their adherence to their former obligations of friendship to the Government and people of the United States be recognized, and that provision be made to enable them to return to an agricultural life and be relieved from a dependence upon the chase for a precarious subsistence.

This is a statute passed in 1867. Therefore they proceeded to make a treaty with these people to repair the injustice they had done, for it is well known that those Indians, fleeing before the wrath of the United States, located in the eastern part of Dakota and there defended the frontier against the hostile attacks of other Indians, and did it for years, and starved and waited for the Government to do them justice.

In 1867, then, recognizing the obligation of the Government to these people, we made this treaty. The Indians agreed to it. They were half-starved, homeless, helpless wanderers. When this treaty came into the Senate of the United States it contained this provision:

To enable said Indians to return to an agricultural life under the system in operation on the Sioux Reservation in 1862, it is agreed that there shall be expended for the benefit of the Indians entitled to locate farms on the Lake Traverse Reservation for the year 1867, \$350,000; for the year 1868, \$250,000; for the year 1869, \$100,000; for the year 1870, \$50,000, and \$30,000 annually thereafter; and to enable the Indians on said reservation to return at once to their agricultural habits and life, and be enabled to cultivate a crop the coming season, the expenditures set forth in the schedule hereunto attached shall be made at as early a day as possible.

It also contained this provision:

An agent shall be appointed for said bands, who shall be located at Lake Traverse; and whenever there shall be 500 persons located permanently upon the Devils Lake Reservation, there shall be an agent, or other competent person, appointed to superintend the agricultural, educational, and mechanical interests of said Indians, and thereafter there shall be expended to aid said Indians in their agricultural improvements and civilization for the first year, \$100,000; for the second year, \$200,000; for the third year, \$100,000; for the fourth year, \$50,000, and \$30,000 annually thereafter.

The Senate of the United States struck out both of those sections. The treaty recited the injustice which had been committed against these friendly Indians in driving them from their homes. And yet the Senate, with knowledge of the facts, proceeded to strike out the money which was to be the consideration for making the treaty on the part of the Indians.

By this treaty the Indians grant to the Government the right of way across their great tract of land still owned by them in North and South Dakota, which was not forfeited by the act of 1863, and the Senate substituted in place of Articles VI and VII a provision by which Congress simply agreed to make appropriations for these people such as Congress might think were proper and just. If the treaty had been ratified as made with the Indians, there would have been no occasion for coming here and asking that the forfeiture of their annuities under the treaty of 1851 should be repealed, for under those two sections the Indians would have received, one band \$750,000 in cash and the other \$450,000 in cash, and in addition \$30,000 a year for thirty years, which would have amounted to \$1,800,000, or over \$3,000,000 in all.

We sent the treaty back as amended by the Senate for their ratification. We had taken possession of their country. They had nothing else to do but to submit to whatever terms the Government imposed upon them. Although we took the benefits of their treaty and afterwards built railroads across their country, we refused to return the annuities we had taken from them and forced them to submit to these conditions, by which we gave them nothing except what we might give them as a gratuity.

Now these people come and say: "Restore our annuities under the treaty of 1851; deduct if you will every dollar which was paid under sections 6 and 7, as adopted by the Senate, and give us the remainder, and then we will receive only about one-half what we would have received if the treaty which we made in 1867 had been adopted."

The events which resulted in the forfeiture of the annuities to these people occurred in 1862, thirty-six years ago. The Indians who participated in those events are dead. Their children of right have inherited every right and every claim to this property. It seems that we can not do otherwise than pass this legislation and restore these people to their rights. It is the belief of your committee that this is the only case in the history of this country where a forfeiture has been made that the Government has not since restored the property forfeited. The Indians of the Indian Territory, although engaged in arms against the Government, enlisting and seceding with the Southern States, in 1866 had their rights and annuities and every sum of money due them under existing treaties, made previous to the war, restored. These people fought upon our side and defended the frontier. They have been put off. Justice has been refused.

Under the Constitution of the United States—

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except through the life of the person attainted.

If these Indians were even guilty of treason, instead of having enlisted in our armies, under that provision of the Constitution forfeiture can not extend beyond the life of the guilty participant, and therefore these annuities should be restored, not in part, but in whole.

The following is a letter from General Sibley in relation to these people:

ST. PAUL, MINN., *January 13, 1873.*

DEAR SIR: I have examined with some care the printed statement submitted to me having reference to the claims of the Sisseton and Wahpeton bands of Sioux upon the Government who were deprived of their annuities for alleged participation in the outbreak of 1862-63 by the act of Congress, and can attest its general correctness. While some of the young men were doubtless guilty of complicity in that fearful onslaught upon the frontier settlers in Minnesota, Iowa, and Dakota Territory, I have the best reason for knowing that as a general rule the chiefs and headmen of these divisions not only had no sympathy with those of their kindred who took part in the massacre, but exerted themselves to save the lives of the whites then in the country and joined the forces under my command as scouts, and rendered signal and faithful service in my campaign against the hostile Sioux, and subsequently in guarding the passes to the settlements against raiding parties of their own people.

I have always regarded the sweeping act of confiscation referred to as grossly unjust to the many who remained faithful to the Government, and whose lives were threatened and their property destroyed as a result of that fidelity.

Having been in command of the forces which suppressed the outbreak and punished the participators in it, I became, necessarily, well informed as to the conduct of the bands and the individuals who took part for or against the Government during the progress of the war, and I have repeatedly, in my official dispatches, called the attention of the Government to the great injustice done the former class by including them in the former legislation which deprived them of their annuities.

Very respectfully, yours,

H. H. SIBLEY,
Late Brevet Major-General, United States Volunteers.

These Indians were living upon a reservation in Minnesota, and they had extensive fields under cultivation. They were living in houses; they had adopted the habits and customs of civilized life. According to the estimate of the Government, the Army took from them crops nearly ripe, growing crops, worth \$120,000. Their houses were burned and they were driven upon the plains and remained for years. They simply ask now that there shall be restored to them that which was theirs under treaties with the Government, and that, too, without interest. They ask simply that there shall be restored to them the principal without the interest, and it seems to your committee that their claim is just.

