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Report : Mr. Geyer

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IN SENATE OF THE UNITED STATES.

JANUARY 24, 1853.—Ordered to be printed.

Mr. GEYER made the following

REPORT.

The Committee on the Judiciary, to whom were referred the memorials of citizens of Lee county, in the State of Iowa, praying the appointment of a commissioner to examine and settle all claims for land in the Sac and Fox half-breed reservations, report:

That on the 4th August, 1824, a treaty was made and concluded at Washington, between the United States and the Sac and Fox tribes, or nation of Indians, the first article of which is as follows:

“The Sock and Fox, or nations of Indians, by their deputations in council assembled, do hereby agree, in consideration of certain sums of money, &c., to be paid to the said Sock and Fox tribes by the government of the United States, as hereinafter stipulated, to cede and forever quit claim, and do, in behalf of their said tribes, or nations, hereby cede, relinquish, and forever quit claim unto the United States, all right, title, interest, and claim to the lands which the said Sock and Fox tribes have, or claim, within the limits of the said State of Missouri, which are situated, lying, and being between the Mississippi and Missouri rivers, and a line running from the Missouri, at the entrance of the Kansas river, north one hundred miles to the northwest corner of the State of Missouri, and from thence east to the Mississippi. It being understood that the small tract of land lying between the river Desmoin and the Mississippi, and the section of the above line between the Mississippi and the Desmoin, is intended for the use of the half-breeds belonging to the Sock and Fox nations; they holding it, however, by the same title and in the same manner that other Indian titles are held.

“In the year 1831 Congress passed an act, appropriating money for surveying and dividing the tract of land reserved to the use of the half-breeds of the Sock and Fox tribes by the treaty of the 4th August, 1824. A survey was made under the directions of the Superintendent of Indian Affairs at St. Louis, which was completed in 1833.”

By an act of Congress approved 30th June, 1834, the United States relinquished all the right, title, and interest which might accrue or revert to them to the lands reserved to the use of the half-breeds belonging to the Sac and Fox nations by the treaty of 4th August, 1824, and vest the same in the said half-breeds, who, under the reservation, were entitled by the Indian title to the same, *with full power and author*

ity to transfer their portion thereof by sale, devise, or descent, according to the laws of Missouri.

The memorialists represent that the officers of the United States have ceased to exercise any control or jurisdiction over the reservation; and that, in consequence thereof, the local legislature have assumed the power (which they allege is not granted) to legislate in relation to the reserved lands, and that other injurious acts prejudicial to the titles have been committed. They pray the passage of a law to authorize and empower an appropriate department of the government of the United States "to assume the control, jurisdiction, and agency over the reservation, and to provide for the appointment of a commissioner to examine and make a final settlement of all claims in the Sac and Fox half-breed reservation; to inquire into all questions involving the right, title, and interest of any and all persons claiming the same, or any part thereof; and to secure to the persons rightfully entitled their titles by patent."

Your committee have deemed it unnecessary to inquire into the truth of the allegations of the memorialists, because, in their opinion, it is not within the constitutional power of Congress to pass any law which would afford the relief prayed for.

By the act of 30th June, 1834, the title to the lands within the reservation passed to the half-breeds belonged to the Sac and Fox nations in common; and the United States ceased to have any interest in the lands, or control over them. The United States have no jurisdiction over the grantees, and cannot control the disposition of their property by future legislation. Congress cannot determine or authorize a commissioner to determine who are entitled to take under the grant, or decide on the validity and legal effect of transfers; these are judicial, and not legislative functions. The whole tract being within the State of Iowa, the partition of the land, and all conveyances other than those provided for by the act of 1834, relinquishing the title of the United States, must be according to the laws of Iowa. Congress is incompetent to decide either. The validity and legal effect of the local laws, of proceedings in partition and transfers, must be decided by the courts; and Congress cannot substitute a commissioner to decide these judicial questions.

The committee, therefore, recommend the adoption of the following resolution:

Resolved, That the prayer of the memorialists ought not to be granted.