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Right of Certain Indians to Annuities

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 1, 1865.—Ordered to be printed.

Mr. DOOLITTLE made the following

REPORT.

[To accompany joint resolution H. R. No. 38.]

The Committee on Indian Affairs, to whom was referred House resolution No. 38, having had the same under consideration, report as follows:

That by the treaty of 1833, made at Chicago, the United Nation of Chippewa, Ottawa, and Pottawatomic Indians ceded to the United States all their lands south and west of Lake Michigan, in exchange for 5,000,000 of acres west of the Mississippi river, and certain annuities, and also other ample provisions for schools and the encouragement of the domestic arts, and also for the erection of farm-houses, Indian houses, blacksmith shops, and mills, to be established, as your committee construe the treaty, for the benefit of the nation when they should emigrate to their new homes.

A portion of said Indians, however, residing upon some small reservations in Michigan, in consideration of being entitled to the benefits of the treaty with the United Nation, and becoming a part thereof, by a supplemental treaty, in consideration of the sum of one hundred thousand dollars, and an annual annuity of two thousand dollars for twenty years, in addition to the sums and annuities provided for in the treaty, ceded these reservations also, and agreed to remove therefrom within three years from the date of the treaty.

But it appears that about two hundred and fifty of these, being Catholics, were "on account of their religious creed," by another provision in the nature of a second supplemental treaty, permitted to detach themselves from the Nation, and, instead of emigrating with it to its new homes west of the Mississippi, to remove to the northern part of the peninsula of Michigan, and unite their fortunes and interests with another small tribe of Indians at l'Arbre Croche.

It seems, from evidence before the committee, they attempted to make some arrangement with the Indians there, but for some reason, and probably from their own dissatisfaction with the country there, they returned with Pokagon, and purchased some lands of the United States in Michigan, upon which they have since resided. It is true the treaty required them to "remove to the northern part of the peninsula," and "in case of such removal" their proportion of the annuities should be paid at l'Arbre Croche, and they have not strictly complied with its terms. But the committee think that the United States, on their part, have waived a strict fulfilment by allowing them to purchase and take the title in fee simple to another portion of its public domain in Michigan, where they have ever since resided, and that they are, notwithstanding, entitled to their just proportion of all annuities payable to them under former treaties, as

well as that arising under the supplementary treaty for the sale of the Michigan reservations.

Besides, the action of the department, which appears by the following letters, confirms this view of the committee. It is a clear acknowledgment that their right to their just proportion of annuities was not forfeited by reason of their not removing to the northern part of Michigan.

Extract from a letter of Robert Stuart, acting superintendent Indian Affairs, dated at Detroit, March 25, 1843, and directed to Hon. T. Hartley Crawford, Commissioner of Indian Affairs.

A delegation of the Pottawatomes, who resided on the reservation in Michigan, prior to the treaty held at Chicago in 1833, and who have always refused to emigrate, called upon me a few weeks since to represent their grievances also. They stated that the chief, Pokagon, (father of one of them,) as also several of his band, were Catholics at the time of signing the treaty, and refused to emigrate west, as it would cause them to recede again into barbarism; that permission was granted them by said treaty to settle in northern Michigan, where they would enjoy the instruction of priests, and receive their proportion of the annuities; that they in due time applied to the Ottawas of l'Arbre Croche, near Mackinac, for permission to amalgamate with them, which, owing to the interference of some evil-disposed whites, was refused; that they then purchased lands of the United States, which a portion of them still occupy, (except forty acres appropriated to their mission.) They urgently plead that the department take their cause into favorable consideration, and allow them a just proportion of the annuities, (which are now all paid on the Missouri,) according to the stipulation on the 599th and 600th page of the treaty book. They say that there are from two hundred to two hundred and fifty of their tribe still in northern Indiana and Michigan. A number of these as well as of the Ottawas are very desirous of becoming citizens, and there are some hundreds, I have no doubt, worthy of the boon; but how their application will be responded to is another question. I regret the necessity of troubling you with so many questions as have of late been pressed upon me, but the paucity of information left in the office by my predecessor renders it indispensable for me to know what course of policy has or should be adopted.

I am, respectfully, your obedient servant,

ROBERT STUART,
Acting Superintendent Indian Affairs.

OFFICE INDIAN AFFAIRS, May 17, 1843.

SIR: My letter to you of the 19th instant informed you of the views of this office respecting the right of the Chippewas of Swan creek and Black river, yet in Michigan, to participate in the benefits of the annuity due the bands, the whole of which has heretofore been remitted west.

I now reply to the remaining portion of your letter of the 25th March, viz: relative to the Pottawatomes who claim the privileges granted under the supplemental article to the treaty with the united bands of Chippewas, Ottawas, and Pottawatomes, of September, 1833, which is in the following words:

"And as since the signing of the treaty a part of the band residing on the reservations in the Territory of Michigan have requested, on account of their

religious creed, permission to remove to the northern part of the peninsula of Michigan, it is agreed that, in case of such removal, the just proportion of all annuities, payable to them under former treaties, and that arising from the sale of the reservation on which they now reside, shall be paid them at l'Arbre Croche." By the tenor of this article it would seem that their claim is well founded, and that they are entitled to their numerical proportion of those annuities payable to the tribe under the treaty of 1829, and also under the supplementary article of the treaty of 1833, amounting together to \$18,000. Therefore, estimating the number of the Chicago Indians at 2,834, including the 250 represented by you, the share that would be to the latter would amount to \$1,587 50, or \$6 35 to each individual; accordingly, that sum will be remitted to you, to be paid out to them as their share of the annuities.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD,
Commissioner.

ROBERT STUART, Esq.,
Detroit, Michigan.

By the construction then given by the Commissioner, their rights to a proportion of all *the annuities* was acknowledged by the government. But in stating the amount of those annuities the Commissioner evidently made the mistake of omitting several permanent annuities, and annuities for terms of years, to which they were as clearly entitled as they were to those he did acknowledge and pay. Looking into the treaties then existing, and basing our calculations upon data given by the department as to the number of Indians from time to time, we find the true statement to be as follows:

PERMANENT ANNUITIES.

Date of treaty.	Amount.
Treaty of 1795	\$1, 000
Treaty of 1809	500
Treaty of 1818	2, 500
Treaty of 1823	2, 000
Treaty of 1829	16, 000

LIMITED ANNUITIES.

Treaty of 1821, 20 years, (five years to run from 1836).....	5, 000
Treaty of 1826, 22 years, (twelve years to run from 1836)....	2, 000
Treaty of 1828, 20 years, (twelve years to run from 1836).....	1, 000
Treaty of 1832, 20 years, (sixteen years to run from 1836).....	15, 000
Treaty of 1832, 20 years, (sixteen years to run from 1836).....	20, 000
Treaty of 1832, 12 years, (eight years to run from 1836)....	15, 000
Treaty of 1833, 20 years, (eighteen years to run from 1836).....	14, 000
Treaty of 1833, 20 years, (eighteen years to run from 1836).....	2, 000
Total	96, 000

It is estimated at the department upon the best data they have that the number of these Indians in Michigan has remained the same, while the whole number of the united nation has steadily and greatly diminished. At the end of the first decade, from 1836 to 1846, they had diminished, according to the estimates of the department, from 6,180 to 4,250; during the second decade, from 1846

to 1856, from 4,250 to 2,250. Basing our computations upon these data furnished by the department, the account stands as follows, beginning A. D. 1836 :

6,180 Indians, per capita of \$96,000.....	\$15 53	
250 Indians, for five years.....		\$19,412 50
6,180 Indians, per capita of \$91,000.....	14 72	
250 Indians, for three years.....		11,040 00
6,180 Indians, per capita of \$76,000.....	12 20	
250 Indians, for two years.....		6,145 00

A. D. 1846.

4,250 Indians, per capita of \$76,000.....	\$17 88	
250 Indians, for two years.....		\$8,940 00
4,250 Indians, per capita of \$73,000.....	17 17	
250 Indians, for four years.....		17,170 00
4,250 Indians, per capita of \$38,000.....	8 94	
250 Indians, for two years.....		4,470 00
4,250 Indians, per capita of \$22,000.....	5 17	
250 Indians, for five years.....		6,462 50
2,250 Indians, per capita of \$22,000.....	9 77	
250 Indians, for five years, including 1864.....		12,212 50

We find the true amount total of their proportion of annuities...		85,852 50
Total of payments made, (being \$1,587 50 per annum for twenty-two years,) which is to be deducted.....		34,925 00

Balance due.....		50,927 50
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The committee, therefore, recommend that sum to be paid to the Michigan Indians out of the funds belonging to the United Nation now in the control of the department.

While your committee agree with the committee of the other house that Commissioner Crawford by mistake failed to carry out the principle adopted by him, by giving them, in fact, their just proportion of all annuities under former treaties and under the supplementary treaty of Chicago, and that it is just that such principle should now be applied, and that they should now receive their just proportion of annuities under *all the treaties* in which they had shared, as well as to the annuities under the treaty of 1829, and supplementary treaty of 1833, they are at the same time decidedly of the opinion that the only just construction to be given to that supplementary article is, that in case they did not remove with the nation west, they were entitled to share in the annuities only.

These Indians who were thus specially permitted to detach themselves from the fortunes and the destiny of their tribe, and to remain in Michigan and become citizens there instead of going with their nation beyond the Mississippi, became thereby separated from their nation as such; they became, in fact, a distinct and separate people, occupying the anomalous position of white men and Indians, citizens of Michigan and yet members of a tribe with special rights of their own, among which was a right to the schools and mills and agricultural advantages of Michigan. They must be deemed, therefore, to have surrendered or given up any other or further interest in the other provisions made in the treaty for the benefit of the nation generally, excepting only those rights expressly reserved, among which was a right to share in the annuities—a right in its nature essentially personal. They could therefore have no rights in the 5,000,000 acre tract, or any fund or proceeds to grow out of it, while thus remaining in Michigan, detached from their nation west of the Mississippi.

Nor, in the opinion of this committee, are the funds set apart for the erection of mills and the establishment of schools to be regarded as annuities within the meaning of this supplemental treaty, by which they were separated from the United Nation of Chippewa, Ottawa, and Pottawatomic Indians. They withdrew from that nation, and by that withdrawal surrendered all rights to its domain west of the Mississippi, to its mill fund and school fund and agricultural fund. Reserving only their share of annuities, they preferred to remain and have the benefit of the society, schools, agriculture, and manufactures of Michigan. They have become, and are now in fact, citizens and electors of the State of Michigan. Your committee are assured many of them are good citizens and thrifty farmers. They have reaped the fruits of the superior advantages which they have enjoyed over their less fortunate brethren, and must be content to share in what the treaty clearly gives them.

The committee therefore report back the joint resolution of the House with amendments to conform the same to the principles contained in this report.

It was found, upon examination and consideration, that the whole sum could not be paid to said Indians in Michigan in one sum, without exhausting the annuities payable to the Indians in Kansas, and that, therefore, it should be divided into five annual payments. While this will do justice to the former, it will not impoverish or oppress the latter. It is a matter in which the United States have no other interest than as guardians of both.