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Statement in the matter of the proposed amendment of the deficiency bill providing for carrying into effect the provisions of sections 26 and 27 of chapter 543, volume 26, of the United States Statutes at Large, relative to the provisions of the treaty entered into by the United States in 1851 with the Upper and Lower Bands of Sioux, Sisseton, Wahpeton, Medawakanton, and Wahpakoota Bands of Indians, providing for a money annuity.

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MONEY ANNUITY TO CERTAIN INDIANS.

APRIL 25, 1898.—Referred to the Committee on Appropriations (to accompany H. R. —, general deficiency appropriation bill) and ordered to be printed.

Mr. DAVIS presented the following

STATEMENT IN THE MATTER OF THE PROPOSED AMENDMENT OF THE DEFICIENCY BILL PROVIDING FOR CARRYING INTO EFFECT THE PROVISIONS OF SECTIONS 26 AND 27 OF CHAPTER 543, VOLUME 26, OF THE UNITED STATES STATUTES AT LARGE, RELATIVE TO THE PROVISIONS OF THE TREATY ENTERED INTO BY THE UNITED STATES IN 1851 WITH THE UPPER AND LOWER BANDS OF SIOUX, SISSETON, WAHPETON, MEDAWAKANTON, AND WAHPAKOOTA BANDS OF INDIANS, PROVIDING FOR A MONEY ANNUITY.

The salient facts in the matter to which this amendment relates are as follows:

1. The United States, in 1851, entered into a treaty with the Upper and Lower bands of Sioux, Sisseton, Wahpeton, Medawakanton, and Wahpakoota bands. Among other provisions of said treaty there was a provision providing for a money annuity of between seventy and eighty thousand dollars for the Upper bands and about the same amount for the Lower bands.

2. The provisions of these treaties were complied with by both the United States and the Indians until August 18, 1862, when the Indians violated the provisions of the treaty requiring them to maintain peace. The bands, as such, made war upon the people of the United States.

3. Congress, on the 6th day of February, 1863, passed an act abrogating and annulling the treaties above referred to and confiscating all the lands, annuities, and claims previously accorded said Indians by the United States.

4. Notwithstanding the bands as such went to war, a large number of the Sissetons and Wahpetons and a small number of the Medawakanton and Wahpakoota bands remained thoroughly loyal to the United States and entered the military service of the United States as scouts and soldiers, and remained in the service until the war following said outbreak was terminated. The proportion of these loyal Indians has been held by the Department of the Interior to be one-third of the whole number.

5. On the 3d day of July, 1887, the scouts and soldiers who had been in military service of the United States for themselves, their fam-

ilies, and the descendants of such scouts and soldiers as were dead employed Gen. John B. Sanborn to prosecute their claims against the United States for the recovery of their forfeited annuities and property. All the scouts and soldiers living and the heads of the families of such as had died entered into agreements with General Sanborn to pay him 33 per cent of the amounts recovered for his services.

6. Under the law these contracts were of no force or validity until the approval of the Commissioner of Indian Affairs and the Secretary of the Interior was indorsed thereon. This indorsement was made by the Commissioner of Indian Affairs September 15, 1882, and by the Secretary of the Interior September 28, 1889, after reducing the agreed compensation from 33 per cent to 10 per cent of the claim allowed and paid. The claim was prosecuted with vigor from the date of the approval of the contracts to its allowance by the Commissioner of Indian Affairs and the Secretary of the Interior on March 22, 1888, when it was reported to Congress for an appropriation with which to pay the same. The amount recovered was one-third of the annuities provided for in the treaties, deducting therefrom all sums that had been received by the Indians subsequent to the payment of the last annuity in 1861, leaving the sum of \$305,978.37 the balance due at the time the report was made, and \$18,400 a year for thirteen years from July 1, 1889, to the expiration of the annuity and treaty period, A. D. 1901. The appropriations have been made and the claim paid upon the above basis, and the only fees that have been allowed and collected thereon to General Sanborn is \$12,811.62, leaving as compensation due for the prosecution of said claim \$41,706.21. Confusion has arisen in the minds of many from the fact that the appropriations have been made for and paid to the Sissetons and Wahpetons, "parties to the agreement," under the third article of the treaty concluded with the said Indians on the 12th day of December, 1889 (26 Stat. L., p. 1037).

These Indians, as a body or band, are "the scouts and soldiers, their families and descendants," only by another name. They are so described and dealt with by the Government. (See treaty entered into by the United States and said Indians February 19, 1867, vol. 15, Stat. L., p. 505.)

Subsequent to 1867 family relationship, intermarriage, etc., had brought to this Sisseton Reservation Indians of the hostile class equal in number to about one-third of the population on the reservation, and, as the treaty gave the entire claim to the Indians on the reservation, a sum estimated to be equal to the amount the Indians of the hostile class on the reservation would receive was appropriated by Congress to supply its place to the scouts and soldiers, their families and descendants, living off the reservation, which, with the additional annuities, after the claim was allowed, made an aggregate sum of \$545,178.37; but no claim for fees is made except as against the fund appropriated and paid to the Indians residing on the Sisseton Reservation, who have not paid the 10 per cent called for by the agreement. That the scouts, soldiers, and loyal Indians, some of whom voluntarily paid, should pay all this expense and the hostile and vicious be released from paying anything is unjust in the last degree, and to release any from paying, simply on account of nominal change of name or description of the parties, while the parties remain the same, seems to be too preposterous for consideration.

7. On the payment of the \$18,400 a year since the payment of the balance found due at the time of the appropriation by Congress in the year 1891, the Department has not withheld the 10 per cent provided

for in the agreements and failed to pay the 10 per cent of the amount disbursed in 1891-92, above specified, for the sole reason that more than twelve years had elapsed between the literal date of the contracts and the date of the appropriation by Congress to pay the claim, while there was no contract in force until the approval of the same, on September 28, 1882, and by the terms of the contracts the "agreement and power shall run and continue and remain in full force for the term of twelve years." From the date of the indorsement of the approval to the date of the appropriation by Congress only about eight years had run. The amendment proposed suggests such a construction of sections 26 and 27 of chapter 543, volume 26, of the United States Statutes at Large as will authorize and require the Department to carry into effect the agreements signed by the Indians and their agent, with the approval of the Secretary of the Interior and the Commissioner of Indian Affairs.

JOHN B. SANBORN.