
SENECA INDIANS OF NEW YORK.

APRIL 20, 1874.—Recommitted to the Committee on Indian Affairs and ordered to be printed.

MR. B. W. HARRIS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3080.]

The Committee on Indian Affairs, to whom was referred House bill No. 1053, submit their report as follows :

The Seneca Nation of New York Indians now occupy the Cattaraugus and Allegany reservations in Western New York. The former of these reservations contains about 23,000 and the latter about 30,000 acres. These lands are all which is left to them of their former extensive territory. They hold them under the treaty of November 11, 1794, which declares that "the United States will never claim the same nor disturb them or either of the Six Nations, nor their Indian friends residing thereon and united with them, in the free use and enjoyment thereof, *but the said reservation shall remain theirs until they choose to sell the same,*" &c.

No treaties with Indians which attempt to provide against the encroachments of civilization, or to secure them in undisturbed possession of their lands, can long be maintained according to the strict letter, even in the remote mountain-regions of the West, much less in the central part of a great, prosperous, and populous State like New York.

It was impossible that these small reservations, entirely surrounded as they are with thriving and increasing manufacturing and agricultural communities, should escape the fate common to all other reservations of the kind.

With the growth of the country, commerce and trade demanded the construction of new avenues of communication. Long lines of railroad have been constructed from the east to the west; and as no obstacles in nature are found sufficient in our day to block their way, it is not strange that they have paid little heed to Indian reservations or treaty-stipulations.

Accordingly we find that the Erie Railroad has crossed the reservation, and has erected depots, machine-shops, and other buildings and structures required for the conduct of its large business upon the Indian lands. The Atlantic and Great Western Railroad, connecting itself with the Erie Railroad, has extended its line through the whole length of this narrow reservation. At the junction of these roads, a thriving and important village has sprung up, known by the name of Salamanca, which now contains, besides buildings used for railroad-purposes, numerous stores, warehouses, and private dwellings, as well as churches,

school-houses, and other public buildings, and has a laborious and industrious population of nearly three thousand people.

The Allegany reservation is about forty miles in length, extending on both sides of the Allegany River, and is hardly more than one mile in width. The Atlantic and Great Western Railroad going west from Salamanca keeps by the side of the river, and thus in the center of the reservation. It was inevitable that the population residing outside of the reservation, on each side of it, would seek and demand accommodation by this railroad. The result has been that railroad-stations have been established upon the reservation along the line of said road at Carrolton, Great Valley, Red House, and Vandalia, at each of which places small settlements have been made, which will doubtless increase in the future.

But although these railroads have been built across the Indian lands in violation of the letter of treaties made with the Seneca Nation, and can be said now to have no lawful right there, yet they have not been so constructed without the consent of the Seneca Nation, nor without just compensation being made; nor have the settlers and villagers gone upon the Indian lands against the will, or without the consent, of the Indians, or with any intention or desire to violate their rights or privileges. So far as has appeared, the railroad-companies have dealt fairly, taking from the said Seneca Nation leases of the lands they occupy, paying full compensation for the rights secured. The settlers in said villages have also dealt honorably, and are all tenants of the Seneca Nation, or of individual Indians, paying just annual rent for their lands. It does not appear that the Indians are dissatisfied with the arrangement, or that they have just cause for complaint of the tenants.

The only title which the Indian can give is a lease-hold title. They have only the right of possession. The pre-emptive right, or the right to extinguish the Indian title by purchase or otherwise, in this case belonged originally to the State of Massachusetts, but has passed by several conveyances to the trustees of the Ogden Land Company, who now hold it.

But the Indian right to occupy is a right forever, or so long as the nation may last; and it would seem that they should have the legal right and power to make their possession profitable and useful to them by leasing it to tenants, if they see fit.

But under the laws of the United States and the treaties made with the Seneca Nation, the Indians are incapable of, and prohibited from, making valid contracts concerning the use and occupation of their lands. The law now in force is as follows: "No purchase, grant, lease, or other conveyance of land, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or in equity, unless the same be made by treaty or convention, entered into pursuant to the Constitution. (Stat. at Large, vol. 4, p. 730.)

Heavy penalties are also provided against the violation of its provisions.

Notwithstanding such is the law, neither the railroads nor settlers are trespassers in spirit or purpose, however much they may be technically so; for, until recently, they acted under laws enacted by the State of New York, which were passed and intended to confirm and authorize leases made by white men with said Seneca Nation of Indians. They relied upon the laws so enacted, and in good faith took leases of land from said nation, and from individual Indians holding under the nation, and have erected thereon not only houses more or less costly and taste-

ful, but expensive buildings for trade and manufactures, school-houses, churches, and other buildings, and have laid out a comely town.

The Indians do not desire that these villages should be removed or broken up, or that these leases should be canceled; but, on the other hand, they profess to be willing to carry out all their leases according to their terms; and if they object to a law confirming them, or authorizing new ones to be made, it is because, being simple in their ideas of individual property, they do not appreciate the importance which a white man attaches to having his contract not only legal but capable of being enforced by law.

The supreme court of New York and the Supreme Court of the United States have decided that the legislature of New York has no jurisdiction over the subject, and can give no force or validity to any leases of land within said reservation, nor give any authority to such in any way. The result is, that no lease heretofore made by said nation or individual Indian, or any which they can hereafter make, is or can "be of any validity in law or in equity."

The value of improvements made upon land in Salamanca and the other villages by the white settlers is estimated at \$3,000,000.

Under this state of the case, the residents in these villages have no remedy whatever against wrong-doers and trespassers. They can neither collect rents nor expel delinquent tenants. They are, moreover, exposed to the danger of being removed, with entire loss of their property, whenever any designing person shall incite the Indians to demand a strict enforcement of their treaty-rights.

Their only dependence now is in the well-known and long-acknowledged high sense of honor of the Seneca Indians.

The committee feel that such a state of things ought not longer to be permitted to exist, and that it is just and right that Congress should ratify and confirm the free and voluntary contracts of their Indian wards, made in good faith and for a sufficient consideration. The committee do not deem it just or wise, even if Congress may have the legal right, to violate or abridge in any way the right of the Indian to the free use and enjoyment of the reservations as set forth in the treaty of 1794, and they therefore reject all the provisions of the bill referred to them except those which relate to existing leases and leases hereafter to be made. They think it just and safe to give them power to lease their lands if they choose, and, having done so, the law should give validity to their acts.

We annex to the report the petitions and remonstrances filed in the case.

Your committee report the accompanying bill as a substitute for House bill No. 1053, and recommend its passage.

We, the undersigned, citizens of the United States and occupants of land in the town of Salamanca, on the Allegany Indian reservation in the State of New York, respectfully but earnestly pray Congress to pass the bill to which reference is made in the resolutions hereto annexed.

[Signed by John J. O'Donnell and 799 others.]

Preamble and resolutions adopted at a citizens' meeting held at Flint's Hall, Salamanca, February 13, 1874—H. O. Wait, president; O. B. Seimar, secretary.

Whereas, by the junction of the Atlantic and Great Western Railroad with the Erie Railroad at Salamanca, on the Allegany Indian reservation, necessary repair and machine shops and transfer freight-houses, to successfully operate said roads, had to be constructed at that point, and a sufficient number of persons employed to transfer the

freight received from one road to the other and to carry on said shops; and that by the employment of persons sufficient for said railroad-purposes at said place other pursuits, as a natural consequence thereof, necessarily followed, to meet the demands of the laborers thus employed and the requirements of the public;

And whereas the Indians, both individually and by their government, represented by their president and council, made and granted leases of such lands upon reasonable terms for a yearly compensation, to be occupied by private residences, business-houses, manufacturing-shops, water-powers for mills and necessary buildings, railroad-depots, repair and machine shops, and other buildings, necessarily connected with railroads, and the legislature of the State of York authorized and sanctioned such occupancy by enacting a statute-law confirming the same;

And whereas, by inducements thus held out and sanctioned, the settlement upon said reservation-lands in said town continued to increase from year to year until at present more than three thousand people have become occupants thereof, and capital invested to the amount of more than three million dollars;

And whereas, after such investment and settling, induced as aforesaid, under the protection and authority of the government of the Seneca Nation of Indians and the State of New York, the courts, whose mandates all are bound to obey, have determined and decided that our money so invested and property thus accumulated is without authority of law and void, and the leases are only evidence of our being trespassers on said lands, and our occupancy is at the mere mercy of the Indians, whom the courts stand ready to aid, whenever invoked, to compel us to relinquish all of said property and vacate the possession thereof; and have also held and decided that Congress alone possesses the power to afford any relief: Therefore,

Be it resolved, That the Congress of the United States be, and hereby is, requested, as the only remedy for all our existing evils, to pass the bill now pending before that body, entitled "An act to authorize the Cattaraugus and Allegany Indians in the State of New York to lease lands, confirm leases, and quiet titles to their lands."

And be it further resolved, That the Senators and Members of this State be, and hereby are, specially requested to exert their influence in our behalf to press the aforesaid bill to an immediate passage.

And be it further resolved, That our committee who have this matter in charge be, and hereby are, requested to persevere in the great work before them until it shall be brought to a successful conclusion.

And be it further resolved, That a copy of these preambles and resolutions, together with the petition to Congress this evening signed and adopted, be forwarded to the Congress of the United States, and that a copy thereof be furnished the press for publication, and also a copy be annexed and forwarded with said petition.

To the Senate and House of Representatives of the United States of America in Congress assembled:

We, the undersigned, members of the Seneca Nation of Indians residing on the Allegany reservation, and the Cornplanter reserve, Warren County, Pa., respectfully represent that we are the descendants and representatives of a once powerful and numerous tribe of the aboriginal inhabitants of an extensive territory; that they are informed that a bill is now pending before your honorable body providing a subdivision and allotment of lands be made on the Allegany and Cattaraugus reservations in the State of New York, among the Senecas, and for the legalizing of leases of lands in the town of Salamanca, which, among other things, we would most respectfully state that we are in favor of having allotment of land to us. It would certainly be beneficial to our nation as a people. At present we are living in common, which show a strong evidence, more tendency, neglecting agricultural pursuits, or making any improvement. If each of us, instead, had his parcel of land to occupy, it would encourage us to labor and become independent. If our Great Father, the President of the United States, will provide for his children in this way, they will be satisfied.

That the Society of Friends of Philadelphia, Pa., earnestly requested us to present our prayer to the Congress of the United States to urge for passage of the bill in relation to the allotment of lands.

Dated February 2, 1874.

[Signed by John Jacobs Square and thirty-six others.]

To the Congress of the United States:

Your petitioners, the officers and members of the national council of the Seneca Nation of Indians, would respectfully represent that we have been informed that a bill has been introduced into the House of Representatives of your honorable body, which provides in

some manner for the sale of a part or the whole of the small remnant of land belonging to us and our people; and that we, as the representatives of the New York Indians residing upon the Cattaraugus and Allegany Indian reservations, desire to protest in the most solemn and emphatic manner against any legislation affecting our lands. And as we obtained our rights to this land by a free and voluntary treaty, in which each party freely participates through its own agents, selected on the part of the United States as its laws and customs required, and on the part of the Seneca tribe of Indians as its laws and customs provided, so we ask that, if we are to be deprived of any part of this land, it may be done by a treaty, and that we may be heard through our lawfully-authorized agents. And as such a treaty would require a ratification by your Senate and the President of the United States, so it would under our laws require ratification by a three-fourths vote of the legal electors, and also by a three-fourths vote of the mothers in our nation.

If, then, you have come to the conclusion that the land which we hold under your treaty of November 1, 1799, in these words, "Now, the United States acknowledge all the land within the aforementioned boundaries to be the property of the Seneca Nation, and the United States will never claim the same, nor disturb the Seneca Nation, nor any of the Six Nations or of their Indian friends residing thereon and united with them, in the free use and enjoyment thereof, but it shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase," should be taken from us, we ask that it may be done in the manner in which it was set apart for us, *i. e.*, by treaty, and then only by our consent. And we earnestly urge that the passage of any law by Congress the effect of which would be to deprive us of any part of our land, under any pretext or consideration, would be a violation of that part of said treaty which says that this land shall remain ours until we choose to sell it.

And we would further remonstrate and state that we are the legal representatives of the Seneca Nation; that we derive our authority from a written constitution adopted by our nation December 4, 1848, and that as such a nation we have ever been acknowledged and dealt with by all the authorities of the United States and of the State of New York, and that we do, by a unanimous vote, attested by the signature of every counselor and officer of said nation, remonstrate against the passage of any law looking to the sale of one foot of our land; and we do in that manner state that the Seneca Nation do not choose to sell their land nor any part of it.

Your petitioners would further state that they do believe that every part and all of their lands are needed and required by their people; that they as a nation have discharged their duty in this, that no Indian is a charge upon the poor-fund or poor-house of the whites; that no Indian suffers for the want of food, clothing, or warmth; that provision has been made for the education of all our Indian children; and that the criminal records of the counties in which our lands are located will show that crimes are very much less frequent among our people than among an equal number of whites adjoining us. Our churches are sustained with personal attendance and with money. While we are thus steadily progressing in the civilization of the whites, we are kept in constant terror by efforts being made upon all sides of us to take away our lands. The Ogden Land Company have ever been our steady, stealthy enemy, and have been and still are trying by every means to drive us from these lands, as they have or claim to have the right to them as soon as we can be removed from the soil. And now we have a new element of trouble. Many years ago the State of New York authorized the Erie Railroad to be built across the Allegany Indian reservation; a few years after, the Atlantic and Great Western Railroad was built across the same reservation, joining the Erie Railroad upon our lands at Salamanca; and now another railroad has been built, also terminating on our lands at Salamanca. All of these railroads have taken possession of as much land as they chose to, and their employés have taken other lands adjoining and built up a large town.

No part of these lands have been lawfully leased either under the authority, laws, and customs of the Seneca Nation of Indians, or of the laws of the United States, but the entire occupancy of lands surrounding the said railroad-junction at Salamanca is in violation of the laws of the United States, the laws of the State of New York, and the laws, customs, and usages of the Seneca Nation of Indians.

Your petitioners are informed that the application for the sale of our lands is being made in the interest of these white settlers, who have thus unlawfully obtained possession of our lands.

Your petitioners would further state that they are an agricultural people; that if they can be assured of holding their lands they can make permanent improvements, but that every effort made to deprive them of their lands tends to prevent action in that direction; that all they need and ask is such an assurance of their continued possession as a refusal by Congress to consider any proposition providing for the sale of their lands. Your petitioners, therefore, pray that the act proposed may be rejected.

Your petitioners would further represent that they have appointed and authorized Harrison Halftown and Moses Stevenson, councilmen of our nation, and Andrew John,

a peacemaker thereof, to present this remonstrance, and to represent us before your honorable body.

Allegany Indian reservation, December 18, 1873.

[Signed by the president, secretary, treasurer, and councillors of the Allegany and Cattaraugus reservations.]

To the honorable the Congress of the United States :

Your petitioners, members of the Seneca Nation of Indians, residing in the Allegany and Cattaraugus reservations in the State of New York, respectfully remonstrate against the passage of bill House of Representatives 1053, "to authorize the Cattaraugus and Allegany Indians in the State of New York to lease lands, confirm leases, and quiet titles to their lands;" and we further represent that we are a nation claimed peaceable people, therefore we ask the honorable Congress to let us alone.

Dated Allegany reservation, January 31, 1874.

[Signed by William Patterson, jr., and 216 other males, and by 125 mothers of the nation.]