

TO DIVIDE A PORTION OF THE RESERVATION OF THE
SIOUX NATION OF INDIANS IN DAKOTA INTO SEPARATE
RESERVATIONS.

MAY 31, 1884.—Referred to the House Calendar and ordered to be printed.

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

REPORT :

[To accompany bill S. 1755.]

The Committee on Indian Affairs, to which was referred the bill (S. 1755) to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations, and to secure the relinquishment of the Indian title to the remainder, submit the following report thereon :

The Sioux Nation or tribe of Indians originally occupied a vast extent of country, most of it west of the Missouri River, which, by the treaty of 1868, was very much reduced. Owing to the occupancy by the whites of that portion of it known as the Black Hills, or Dead-wood country, in 1876, their reservation was again reduced. This bill proposes (with consent of the Indians) to further reduce it, and open for settlement (under the homestead act only) one-third of their present reserve, or about 10,000,000 acres of land.

The history of these Indians and their present condition is so fully set forth in the report of the Select Committee of the Senate, appointed under the resolution of March 2, 1883, "to examine into the condition of the Sioux Indians," that this committee adopt substantially the report of the Senate committee (except so far as the same is in conflict with the amendments made by this committee to Senate bill 1755) as embodied in the following extracts from said report, viz :

THE GREAT SIOUX RESERVATION.

This reservation is situate in the Territory of Dakota, and contains, according to the Report of the Commissioner of Indian Affairs for 1883, 34,125 square miles. It was created by a treaty between the United States and the different tribes of Sioux Indians April 29, 1868. By the terms of that treaty the United States, in consideration of the release by the Indians of "all claims or rights in and to any portion of the United States or Territories, except such as is embraced within the limits of this treaty," covenanted with said Indians that the territory therein described "shall be, and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named," and "that no persons except those herein designated and authorized so to do, except such officers, agents, and employes of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described." There were different tribes and bands of the Sioux Nation gathered together by this treaty from different and distant reservations which they relinquished to the United States. All of these by the terms of the treaty took a common title to this reservation, holding the title thereto in the terms already quoted, in common, but being cared for by the United States at different agencies situated upon the reservation, while the bands themselves more or less distinct, occupied separately different portions of the

reservation held in common by all. As different tribes and bands were thus located on different portions of this large reservation held in common by them all, in order to guard the rights of each in the whole and protect each one from a combination of the others to part with any portion of the territory to the injury of any other band or tribe, it was provided in the treaty under which they held title that "no treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force as against the said Indians unless executed and signed by at least three-fourths of all the adult male Indians occupying and interested in the same, and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him as provided in article 6 of this treaty."

The reservation was originally much larger, but was reduced by the United States taking from it the Black Hills in 1876, at the time they were invaded by men in search of the precious metals discovered in that part of the reservation. At the time that treaty was concluded, and these Indians were gathered upon it, they depended largely for their subsistence upon the chase, and this large reservation, in what was then an absolutely unsettled part of the public domain, was granted to them for a hunting-ground. Since that time this reservation has found itself in the heart of the great Territory of Dakota, fast filling up with population, and being traversed in all directions by railways. The natural consequence is that the game has disappeared, and the reservation can be used only for agricultural and grazing purposes. The Black Hills country on the west, rich in mining wealth and in agricultural products, has been filled up rapidly with an enterprising population. Fine agricultural lands on different sides of this reservation have been taken up largely by settlers. Two principal railways, moving west toward the Black Hills, have already reached the Missouri River, one at Pierre and the other at Chamberlain, some hundred miles below, and have negotiated agreements, now awaiting the ratification of Congress, for the right of way through this reservation to the Black Hills.

Since the game has disappeared from the reservation, the Indian has become more dependent than ever upon the Government for subsistence, and will become entirely so unless he be taught, in some measure, to support himself by agriculture and grazing.

The Indians number about 25,000, and are cared for at six agencies, namely Standing Rock, Cheyenne River, Crow Creek, Lower Brulé, Rosebud, and Pine Ridge. In this condition of things, so entirely changed from that which existed when the reservation was established, under the pressure for lands for the settler, as well as under the belief that the Indian could be better brought to sustain himself by means of agricultural pursuits upon less territory, Congress authorized the Secretary of the Interior, in August, 1882, "to negotiate with the Sioux Indians for such modification of existing treaties and agreements with said Indians as may be deemed desirable by said Indians and the Secretary of the Interior; but any such agreement shall not take effect until ratified by Congress: *Provided, however,* That if any lands shall be acquired from said Indians by the United States, it shall be on the express condition that the United States shall only dispose of the same to actual settlers under the provisions of the homestead laws." Under the authority of this act the Secretary of the Interior, in September, 1882, appointed three commissioners, Newton Edmunds and Peter C. Shannon, of Yankton, Dak., and J. H. Teller, of Cleveland, Ohio, with instructions to "proceed to the above-named agencies as early as practicable, in such order as will be found most convenient. Your object in visiting these agencies will be to ascertain whether they are willing to negotiate for a cession to the United States of any portion of their reservation, and, if so, what portion."

On the 3d of February, 1883, the President communicated to Congress, for their ratification, an agreement purporting to have been entered into by these commissioners with the Sioux Nation of Indians, the legal effect of which, if ratified, would be to place said different bands of Sioux Indians upon separate reservations carved out of this great reservation, and to release to the United States a portion of the same, estimated by the commissioners in their report at from 17,000 to 18,000 square miles, but which is believed from subsequent calculations made at the Land Office to contain only 14,166 square miles. This agreement was not executed in conformity with the requirements of the twelfth article of the treaty already quoted, but instead had only the signatures of 85 Indians at Pine Ridge, 119 at the Rosebud Agency, 37 at the Cheyenne River Agency, and 143 at Standing Rock; in all 384. It had also the names of 20 Indians on the Santee Reservation. These Indians do not reside upon the Great Sioux Reservation, and are not practically affected by any change in its boundaries. They were, however, parties to the original treaty, and are considered to have some share in the title.

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Congress at its last session refused to ratify this agreement, but instead appropriated the sum of \$10,000, "For the purpose of procuring the assent of the Sioux Indians,

as provided by Article 12 of the treaty between the United States and the different bands of the Sioux Nation of Indians, made and concluded April 29, 1868, to agreement made with said Sioux Indians, transmitted to the Senate February 3, 1883, by the President, with such modification of said agreement as will fully secure to them a title to the land remaining in the several reservations set apart to them by said agreement, and to the Santee Sioux the proceeds of that portion of their separate reservation not allotted in severalty."

The commissioners originally appointed by the Secretary of the Interior to negotiate this instrument were charged with the duty of carrying out this last enactment, and their report was submitted to Congress by the Secretary of the Interior on the 22d of January, 1884, in which they detail their unsuccessful efforts to obtain the assent of the Sioux Nation to this agreement of cession in conformity with the requirements of the twelfth article of the treaty of 1868, and of the law of last session, and their reasons for considering such assent unnecessary. They conclude as follows:

"Being unable, as before stated, to prosecute further the work of obtaining signatures with any hope of present success, we return the agreement herewith without change."

It is claimed by the commission that because we took the Black Hills from these Indians in violation of the twelfth article of this treaty, in 1876, we have a right to violate it again and take this land also. This committee does not understand the ethics which bases the right to violate the obligations of a treaty upon a previous violation of it. The nation can no more than the individual take advantage of its own wrong. It cannot justify one violation of duty by another. If it did not intend to keep faith with the Indians when it entered into this treaty with them, it should have never made it. Any previous violation of it is a disgrace to be shunned, not a precedent to be followed. If the taking of the Black Hills in disregard of treaty obligation can ever be cited as a precedent, it will be only when the United States finds itself again, as it did then, confronting an impending outbreak and bloody war between a body of trespassing miners and the Indians, and took the land away from the Indians as the easiest way of avoiding a conflict. No such state of things exists at the present time, and no such flimsy excuse can be set up for disregarding express treaty stipulations with these Indians in time of profound quiet. The instructions issued to the commission September 16, 1882, under which they undertook to negotiate with these Indians for this land, required them "to explain to the Indians their rights under the treaty of 1868 and the agreement of 1877, and to advise them that no action will be taken without their consent, as provided in the treaty of 1868." And the Interior Department was at that time obtaining the consent of the Indians, in conformity with that treaty, to a cession of territory to the Poncas, which has since been completed. And on the 14th of last March, the commission was sent again to procure the execution of this agreement "in conformity with the act of March 3, 1883," which expressly required them to "procure the assent of the Sioux Indians as provided in article 12 of the treaty of 1868." This committee do not find in their failure to comply with this express enactment any justification for disregarding a plain treaty stipulation.

This agreement, therefore, by the Great Sioux Nation to part with a portion of their territory, equal in extent to several States of this Union, is now before Congress for ratification, with only the assent thereto of the individual Indians before named.

The Senate at its last session charged this committee with the duty of "examining into the condition of the Sioux Indians upon their reservation, the character of the same, and the feasibility and propriety of the proposed reduction of said reservation, and such other matters concerning the welfare of said Sioux Indians as they may think necessary." The committee, in the discharge of their duty, visited each one of the six agencies upon this reservation in August and September last, and held conferences with the Indians, with their agents, and with such other persons, including Army officers, of practical knowledge of these and other Indians, as they were able to meet either upon the reservation itself or in that vicinity. They held conferences with the Indians at these agencies in open council, in the presence and by the aid in each conference of two or three interpreters to avoid any possible mistake in interpretation, and with a short-hand reporter. All that was said to them by the committee and by the Indians in reply, as well as all that was stated to the committee by others, was faithfully taken down, and accompanies this report. The committee also heard the commission itself in explanation of what it had done.

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The conclusion of the committee, however, without reflection upon the integrity of purpose by which the commission was actuated, is nevertheless irresistible that very few, if any, of this large body of Indians were aware that the agreement brought to them by this commission for their assent would result, not only in the dismemberment of the nation itself and the erection of separate reservations, but in the cession to the United States of one-half of this great domain guaranteed to them by treaty stipula-

tion for all time, unless three-fourths of their male adults should consent in writing to the disposal of any part thereof.

Arguments drawn from the desirability of such a cession, from its supposed advantages to the Indians themselves, or from the outrage, as it is termed, of keeping such a large body of land for the Indians to roam over while the white settler is anxious to possess and cultivate it, do not seem to the committee to have any weight or place against the expressed stipulation of this Government that, "no treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force as against the said Indians unless executed and signed by at least three-fourths of all the adult male Indians occupying and interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him, as provided in article 6 of this treaty."

The committee are quite ready to concede, not only for the sake of argument, but the fact itself, that it is far better for the Indians that the whole reservation should be cut up into separate reservations for each tribe, and that a large portion of it should cease to be longer an Indian reservation, and be opened for settlement; but even these desirable results can be obtained at too much cost if express treaty stipulations with these Indians, the foundation of their title, be disregarded, and if we take, in violation of the bond we ourselves made with them, such portion of their territory as we please, and appropriate it to the public use, setting our own bounds and fixing our own price. The committee are therefore of the opinion, and recommend, that the agreement as submitted to Congress should not be ratified in its present form. They are, however, of the opinion that substantially the same results are attainable in strict conformity to our treaty obligations to these Indians, and in a manner that will result largely, not only to the benefit of these Indians, but to the public advantage. They have already said, and repeat, that the reservation in its present dimensions is altogether too large in view of the future opening up for these Indians. They cannot use or occupy or improve this vast tract of country. Narrower limits and a less roving life will contribute very much to their taking that position in the future which, to the committee, seems the only one open to them—the use of their land for agricultural and grazing purposes, and the use only of so much land for those purposes as can be applied profitably to their improvement and sustenance; but land held forever to their use, as this is by treaty stipulation, is to all intents and purposes held in fee, and if they part with it they should receive a fair equivalent.

There are between nine and ten millions of acres within the limits of the proposed cession; about one-half of it, traversing the reservation from the Missouri River west, through which the Cheyenne and White Rivers run, is land of the finest quality, which could be rapidly sold by the United States at \$1.25 an acre, the minimum price of the public lands. Two railroads have already agreed with them to pay \$5 an acre for a right of way through it. If, therefore, this cession should be made to the United States, and one-half only of it is sold to settlers at the minimum price, it would yield a sum of more than \$5,500,000.

It was made a condition of the act under which the commission was appointed to obtain this cession, that the land thus obtained should be opened only to settlers under the homestead act. If, therefore, the United States deems it wise to give away these lands to the actual settler, relying upon the indirect gain such a settlement will be to itself, that does not seem to the committee to be any reason why we should not pay a fair equivalent for it to the Indians who now own it. What disposition the United States shall deem it wise to make of the land after they have obtained a relinquishment of the Indian title can have no bearing upon the question what consideration justice and equity demand they shall pay for it to the Indians. It was proposed in this agreement, besides the extension of one or two provisions of the treaty of 1868 for a further term of years, to also pay for this entire cession 25,000 cows and 1,000 bulls. The cows and bulls have been treated by the commission, and by those urging upon the Indians their consent to this cession, as the chief consideration. The cows, at \$35 each, would amount to \$75,000, and the bulls, at \$50 each, to \$50,000; in all, \$925,000; while one-half of the land which the settler is eager and impatient to take up, would, at the Government minimum amount, as has been stated, to more than \$5,500,000, while the other half of the land, if of less value, would without doubt be speedily taken up after the other had been occupied. This statement itself is sufficient to show the entire inadequacy of this consideration upon any principle of fair equivalent in dealing with these Indians, towards whom we stand in the relation of guardian, with power to fix our own terms both as to boundaries and as to consideration.

The committee are of opinion also that it would not be wise that the entire consideration for this cession should consist of cows and bulls, as is contemplated in this proposed agreement. The evidence in this respect taken by the committee will be

found to be nearly unanimous that this large body of Indians as a whole is not yet prepared to make a wise and beneficial use of that number of cattle for breeding and herding purposes. The committee do not doubt the wisdom of an attempt to teach these Indians, as well as others, to adopt in some measure herding or the pastoral life. Their land in many places is fit only for such use. Some of the Indians are sufficiently advanced to make good use of herds, if properly taught, with small beginnings, and with special pains on the part of those who have the Indians in charge. But as a whole this is not true of the Great Sioux Nation, and this number of cattle delivered to them for this purpose would, be practically lost. A large proportion of them would die for want of knowledge on the part of the Indians of what was necessary for their preservation, many more from want of disposition to take care of them, and the rest would in all probability, be killed and eaten by those to whom they were delivered. Yet, the committee would by no means discourage the attempt, and would provide for the gradual introduction of herding among these Indians, and the furnishing for that purpose proper breeding-stock in such quantities and at such places on the different reservations as the soil, the climate, or the advanced state of the Indians and the efficiency of those in charge would justify.

In connection with this effort the present seems to the committee to be a favorable opportunity for providing a permanent fund whose yearly income can be appropriated to the advancement of these Indians in civilization and self-support. They were warlike savage Indians of the worst type when gathered some fifteen years since upon this reservation. No Indians have made in that short time greater progress than these. They are now, with few exceptions, peaceable and disposed to conform to the requirements of the Government. At some of the agencies they have made remarkable progress, and at all their present condition contrasted with that of fifteen years ago gives great encouragement and promise that if not neglected, and if their present needs are supplied, they will soon reach a point where, under treaty stipulations, they will no longer need support from the Government. But a considerable outlay of money will be required to keep up this progress and hasten the day when the Government will be relieved from the annual call upon the Treasury which this large body of Indians has for a long time made.

It would seem to be most unwise to take from them and give away to the settler one-half of their reservation, and then look to the Treasury for an annual appropriation to meet, not only their present needs, but any necessary outlay for the continuation of that progress towards civilization and self-support which they are now making. The committee are therefore in favor of converting this large tract now about to be opened to the public into a permanent fund, the annual income of which shall be devoted to the civilization, education, and advancement in agriculture and other self-supporting pursuits, for these Indians. The committee are not unmindful of the original statute under which negotiations for a part of this reservation were commenced: "That if any lands shall be acquired from said Indians by the United States, it shall be upon expressed condition that the United States shall only dispose of the same to actual settlers under the provisions of the homestead laws." They are therefore disposed to recommend that this land be so opened to actual settlers only, but upon condition that they pay a small sum per acre for it, and that sum be set apart in the Treasury for the creation of a permanent fund for the benefit of these Indians. The benefit of the homestead laws will in this way be secured to the settler without any appreciable cost, and a permanent fund at the same time created for the Indians without any charge upon the Treasury. The Indian will have converted the land which he does not need into a productive fund, the use of which will be of great value to him, the settler will obtain all the advantages of the homestead law upon the payment of a trivial sum into the Treasury of the United States, and the Government will in that way promote the interest of both the Indian and the settler.

The committee have therefore prepared and recommend the passage of a bill, the legal effect of which will be to create separate reservations for the Indians receiving annuities and rations at each of the existing agencies upon the Great Sioux Reservation, and will cause to be ceded to the United States a large portion of that reservation, amounting to between nine and ten millions of acres. It provides for the experiment of making herders of such of these Indians as are fit to take suitable care of herds, and, further, for a fund of at least \$1,000,000, to be held permanently in the Treasury to the credit of these Indians, the annual interest of which, at 5 per cent., to be devoted to the civilization, education, and training of these Indians for self-support and citizenship, in such manner and by such methods as from time to time shall be deemed most wise and efficient by the Secretary of the Interior.

The bill recommended by the committee provides further that the Indians at each agency shall have issued to them a patent for their reservation, declaring that the United States will hold in trust for such Indians such reservation, for the sole use and benefit of those Indians, for the period of twenty-five years, and as much longer as in the judgment of the President their condition shall require. It further provides, however, for the grant of patents in severalty to each individual Indian as soon as,

in the judgment of the Secretary of the Interior, such Indian has become so far advanced as to be able to maintain himself upon land set apart exclusively for his use, the patent to the individual Indian declaring in like manner that the United States will hold this land for him in trust for a period of twenty-five years, at the end of which he shall be entitled to the patent therefor in fee.

The bill is made dependent upon its acceptance by the Indians of the Great Sioux Nation, in conformity with the requirements of the twelfth article of the treaty of 1868, in relation to the cession of any part of their territory. The boundaries of the separate reservations prescribed in this bill are the same as those marked out in the agreement proposed by the commission, and which the Indians have failed to accept in accordance with the requirements of said treaty, with the exception of the boundaries of the reservation for the Lower Brulé Indians. Instead of the reservation proposed in that agreement, which was rejected unanimously by the Lower Brulés, a reservation for them is proposed in this bill near that of the Crow Creek Reservation. This is believed by the committee to be a much more desirable location, the quality of the land being much better, opportunities for obtaining wood and water are far superior, access to the agency upon this reservation will be much easier—it being upon the Missouri River—and the Indians are believed to be willing to consent to a removal from their present location to this reservation, while they utterly refused their assent to any cession of territory which required their removal to the reservation proposed by the commission. The Santee Sioux are also made secure in the reservation now occupied by them.

The committee are assured and believe that the assent of the Indians, in accordance with the requirements of the twelfth article of the treaty, can be obtained to the propositions contained in this bill. They are confident also that its provisions are such as will be of the greatest benefit to the Indian, and will secure substantially all the beneficial results sought by the agreement which these Indians have rejected.

This committee have made sundry amendments to the Senate bill, and, as thus amended, recommend its passage.

The amendments proposed by the committee are as follows :

In section 8, line 6, strike out the words "for the period of twenty-five years."

In section 8, line 8, strike out the words "and that at the," and also in same section strike out all of lines 9, 10, 11, 12, 13, 14, 15, and 16, and in line 17 strike out the words "Patent in fee be issued."

In section 9, line 11, after the word "thereon," insert the words "or belonging thereto."

In section 10, after the word "and," in line 4, insert the words "if practicable."

In section 11 strike out all of lines 11, 12, 13, 14, 15, 16, 17, and 18.

In section 13, after the word "months," in line 10, strike out the words "after this act shall take effect, this allotment," and insert the words, "after being personally notified to select his allotment of land according to the provisions of this section."

In section 16 strike out all after the word "act" in the sixteenth line.

At the end of line 16, in section 17, insert the words, "Provided, not exceeding five thousand of said cows nor more than two hundred of said bulls shall be purchased, contracted for, or delivered in any one year."

In section 17, line 19, strike out the words "one million," and insert the words "three millions." In line 22 strike out the word "five," and insert "three."

Strike out all after the twenty-second line, in section 17, and insert as follows: "And expended from time to time under the direction of the Secretary of the Interior, in such manner and for such purposes as in his judgment will most contribute to the advancement in civilization, education, and self-support of the Indians receiving annuities and rations upon the reservations created by this act, in proportion to the numbers so receiving rations and annuities at the time this act takes effect."

In line 18, of section 18, strike out the words "in any one tract," and

in same section, after the word "acres," in line 19, insert the words "in any one reservation."

In section 19, after the word "limitation," in the seventh line, strike out the words "anything in this act to the contrary notwithstanding."

In section 20, after the word "Congress," in line 18, insert the words "to grant to railroad companies the right of way for their railroads;" in line 20, in same section, strike out the words "or to grant to railroad companies the right of way;" in line 28, after the word "preserved" insert the words "and used;" in same line, after the word "park," insert the words "and for no other purpose;" and in lines 31 and 32 strike out the words "subject to the approval of the President of the United States."

Strike out all of section 21 and insert in lieu thereof the following :
 "That all money accruing from the disposal of lands in conformity with this act shall be paid into the Treasury of the United States."

In section 23 strike out all of lines 11 and 12.

