

TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS.

APRIL 28, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

REPORT :

[To accompany bill H. R. 1885.]

The Committee on Indian Affairs, to whom was referred bill No. 1885, to provide for the support and civilization of the Turtle Mountain band of Pembina Chippewa Indians, and to extinguish their title to lands claimed by them in the Territory of Dakota, beg leave to report the same back with amendments, and recommend that the bill as amended do pass.

In support of this recommendation the committee submit the following statement :

In 1863 the Pembina Chippewa Indians made a treaty with the United States, and ceded their lands in the Red River Valley, in Dakota and Minnesota. They reserved the lands north and west of Devil's Lake, in Dakota. About 500 of these Indians went upon a reservation in Minnesota, and have now become nearly self-supporting. About 250 of these Indians went into the country north and west of Devil's Lake, in Dakota, and have subsisted by hunting, &c., claiming title to about 9,000,000 acres of land. This vast country is now being occupied by hundreds of settlers, many of whom settled upon these lands before the Indian title was recognized by the Interior Department or these lands withdrawn from settlement.

In the report of the agent at White Earth, Minn., the following mention of these Indians is made :

Page 104, Report of the Commissioner of Indian Affairs, 1880 :

A portion of the Pembina band, numbering 250 persons, still absent themselves from the reservation, and are roaming over the Territory north and west, destitute vagabonds.

No better illustration of the improved condition of the Indians upon reservations over those who endeavor to subsist elsewhere could be had than the thrift, industry, and comfort of the one, and the filth, idleness, and pitiful poverty of the other.

On page 110, Report of the Commissioner of Indian Affairs, 1881 :

The agent at White Earth says: An active interest has been manifested in the improvement of the condition of the Indians engaged in agriculture, and especially is this true of those of the Pembina bands whose former condition of utter poverty and barbarism, as represented by my predecessor, are now among the most orderly, industrious, and thrifty under my charge.

In his letter to the Secretary of the Interior on the subject, under date of March 11, 1882, the Commissioner of Indian Affairs, referring to his recent report, said :

I have the honor to state that the affairs of these Indians was made the subject of a report to the department, dated the 4th ultimo, a copy of which is herewith inclosed

for the information of said committee, as showing the views held by this bureau in respect of the lands referred to in the bill under consideration, as well as the very urgent needs of the Indians who occupy and claim them.

It will be seen by reference to said report (pp. 9-10) that recommendation is therein made for legislation looking to the extinguishment of the Indian title to the lands claimed by these Indians, and for suitable compensation to the Indians for the lands that may be ceded by them to the government, so that the general features of this bill are in accord with the views held by this bureau, in respect of the things therein treated. However, there are certain modifications required, and I therefore recommend the following:

The Commissioner then suggests modifications and amendments, which your committee have inserted in the bill.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 14, 1882.

SIR: I have the honor to acknowledge the receipt, by your reference for report, of a letter dated December 29, 1881, from Lieut. H. M. Creel, of the Army, addressed to Hon. William Windom, of the Senate, who, in referring the same to the department, requests that he may be advised whether any action touching the lands therein referred to is desirable, and, if so, what legislation would, in the view of the department, be expedient.

The object of the writer, Lieutenant Creel, appears to be to secure legislation looking to the extinguishment of the Indian title (which he claims is very imperfect at best) to a vast area of country lying in the northern part of the Territory of Dakota.

As showing, very briefly, the view held by this bureau in respect of the status of these lands, and the condition and needs of the Indians occupying and claiming them, I beg leave to quote from my annual report to the department for the year last past (1881) as follows:

“TURTLE MOUNTAIN BAND OF CHIPPEWAS IN DAKOTA.

“The unsettled condition of affairs with these Indians has long been a matter of deep concern, not only to the Indians themselves, but to this bureau as well. Prominent among their troubles is the uncertainty on their part as to the view held by the government relative to the status of the lands claimed by them, and the purposes of the department in the matter of their ultimate disposal.

“The tract of country inhabited and claimed by them is north and northwest of Devil’s Lake, in Dakota, and is estimated to contain 9,500,000 acres. These lands have never been ceded to the United States, and the claim of the Turtle Mountain band to ownership is based upon continuous occupation by them and their ancestors for many generations. That the Indian title to the country in question has never been extinguished or successfully disputed cannot be denied, and according to the theory that has been adopted by the government it would seem that these Indians have all the original rights in an unceded territory. Effort has been made from time to time to remove them to the White Earth Reservation in Minnesota, but they have steadfastly resisted such removal, lest the abandonment of the country claimed by them might be looked upon as a willing relinquishment of their title thereto.

“The condition of these people is deplorable in the extreme; they have no permanent abiding place, are very poor, and owing to the scarcity of game, which indeed may be said to have almost entirely disappeared, they have only the most scanty means of subsistence. Last year the agent at Devil’s Lake Agency reported that chief Little Bull and his people were in great danger of actual starvation. Emigration is fast flowing into the country, to the great discomfort of the Indians, and they desire and have repeatedly asked protection from the government. That their condition requires the attention of the government is manifest. Petitions have been presented from both sides, Indians and whites, asking for a settlement of their difficulties, and I propose to make the matter the subject of a special report, with a view to securing early Congressional action looking to their permanent relief.

“I will add that the number of Indians roaming about over this vast area, homeless, destitute, and almost hopeless, is variously estimated at from 500 to 600 full-bloods, and from 1,000 to 1,500 half-breeds.”

The press of business incident to the assembling of Congress has prevented me thus far from submitting the proposed report relative to the affairs of these Indians, but I gladly seize the opportunity presented in the request of the honorable Senator for information to submit such facts (in addition to the above) and suggestions as will, it

is hoped, meet his purposes and be sufficient as affording a basis for appeal to Congress for such legislation as the circumstances would seem to require.

The Pembina band of Chippewas (of which the Turtle Mountain Indians are a part) have for a long time laid claim to the country hereinbefore referred to.

It appears from the minutes of the treaty of October 2, 1863, with the Red Lake and Pembina Indians, at which time they made a large cession of territory to the United States, that in executing said treaty the Pembina bands retained for themselves a tract of country north and northwest of Devil's Lake. In this connection Hon. Alexander Ramsey, who negotiated said treaty on the part of the government, in his report submitted at the time, says: "The Pembina band, who subsist by buffalo hunting, also retain for themselves a tract of country claimed by them, embracing some of the favorite pastures of that animal north and northwest of Devil's Lake."

In 1876 the Turtle Mountain Indians addressed a memorial to Congress praying for the confirmation of their title to these lands, and that some provision be made for their protection, in which their claim was set out as follows:

"Your memorialists, the Turtle Mountain band of Chippewa Indians, respectfully represent that they and their fathers for many generations have inhabited and possessed, as fully and completely as any nation of Indians on this continent have ever possessed any region of country, all that tract of land lying within the following boundaries, to wit: on the north by the boundary between the United States and the British possessions; on the east by the Red River of the North; on the south their boundary follows Goose River up to the Middle Fork; thence up to the head of Middle Fork; thence west-northwest to the junction of Beaver Lodge and Cheyenne River to its headwaters; thence northwest to the headwaters of Little Knife River, a tributary of the Missouri River, and thence due north to the boundary between the United States and the British possessions.

"That their possession of this country has never been successfully disputed by any of the neighboring or other tribes of Indians, but has at all times been recognized as the country of the Turtle Mountain band of the great Chippewa Nation, of which the three Chippewas, Little Shell, grandfather, father, and son, have been principal chiefs for the last fifty years, and that they have never by general council, by their chiefs, or by any authorized delegates entered into any treaty with the United States by which they ceded any portion of their possessions." * * *

It may be well to state here that if any of the Sioux tribes ever claimed this country, all such claim was relinquished by the treaty of April 29, 1868 (Stat. 15, p. 635), the second article of which, after defining the boundaries of their reservation, provides as follows:

"And henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories except such as is embraced within the limits aforesaid, and as hereinafter provided."

(The subsequent provision does not necessitate a modification of the above statement.)

There is an evident error in the foregoing memorial in respect of the eastern boundary of their claim, for by the treaty of October 2, 1863, before referred to, the Chippewas (including these people) ceded to the United States all the territory owned and claimed by them in Dakota east of a line running in a northeasterly direction from the eastern shore of Devil's Lake to the head of the main branch of Salt River; thence due north (a little east of the 98th degree west longitude) to the British possessions.

The above description is not that given in the treaty precisely, and is only approximately correct, yet it is deemed sufficient to the present purpose.

The boundaries of the unceded Indian country claimed by the Pembina Chippewas, and recognized by this bureau to the extent indicated in report to department quoted from in the beginning of this letter, are marked, with approximate accuracy only, upon the map herewith inclosed. As has been seen, its area has been estimated at 9,500,000 acres. As a portion of their original claim has been taken for the use of the Fort Berthold Indians, it is not likely that it will now exceed 9,000,000 acres.

It is not at all probable that this territory will ever be needed by the government for Indian purposes. The Indians now occupying and claiming it do not need more than one-twentieth part thereof, and I am firmly convinced that the entire tract, except, say, 500,000 acres, which should be retained in a compact body for them, should be sold for the benefit of the Turtle Mountain Indians, and their brethren now at the White Earth Agency, who should be held and deemed to be as much entitled to share in the benefits arising from such sale as they, the Turtle Mountain band.

It seems to me that these Indians are justly entitled to the recognition of their claim on the part of the government to the lands in question, and the files and records abound in evidence showing that this office has long recognized such claim.

Not very long ago (in April, 1880) a draft of a bill was prepared here and submitted to the department, in which it was provided, among other things of like character in respect of other Indians, that "negotiations shall also be extended to and include the Turtle Mountain Chippewas of Dakota for the extinguishment of their title for a cer-

tain sum to the unceded lands claimed by them in said (Dakota) Territory"; and a bill has been introduced in the present Congress (by Mr. Washburn, H. R. 3862, introduced February 2) having an object similar to the one just referred to, in which I find precisely the same provision.

In both of these bills it is provided that these Indians shall be consolidated with the other numerous bands of Chippewas upon the White Earth Reservation.

As has been said before, these Indians are unwilling to remove to the White Earth. They appear to be greatly attached to the country so long occupied by them, and they desire to have lands, with a permanent title thereto, somewhere in the vicinity of the Turtle Mountain. It is therefore unlikely that they will consent to so much of the measure as contemplates removal and settlement upon said reservation.

In view of the foregoing I would suggest to the honorable Senator (Windom) the propriety of asking Congress for authority to negotiate with the Pembina band of Chippewas, and such other Indians as should properly take part in such negotiations, for the cession of all the territory claimed by them in Dakota (except a tract sufficiently large to secure to them allotments in severalty for their permanent settlement, the location thereof to be hereafter determined). And as a suitable compensation for such cession, I would recommend that there be paid to them, annually, the sum of, say, \$50,000 for the period of twenty years; the government to reimburse itself out of the proceeds of the sale of the ceded lands.

At 50 cents per acre, assuming the estimated area, after deducting the lands to be retained (8,500,000 acres), to be correct, the proceeds would reach the sum of \$4,250,000; the interest on which amount, at 3 per cent., would be \$127,500. At 25 cents per acre, the amount received would yield \$63,750, at 3 per cent.

If the lands were sold at the minimum price of the public lands (\$1.25 per acre), the amount accruing from such sale would be very great—\$10,625,000.

The Indians need present assistance, and if it could be afforded in the manner suggested, without waiting the long processes usual in the sale of the public lands, it would be immeasurably to their advantage.

I return herewith Lieutenant Creel's letter, with Senator Windom's indorsement, and inclose a copy of this report.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. the SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 11, 1882.

SIR: I have the honor to acknowledge the receipt, by your reference for report, of a letter from the chairman of the Senate Committee on Indian Affairs, of the 24th ultimo, inclosing Senate bill No. 925, "to provide for the support and civilization of the Turtle Mountain band of the Pembina Chippewa Indians, and to extinguish their title to lands claimed by them in the Territory of Dakota," upon which the said committee desire from the department an expression of opinion as to the wisdom of the measure and its form, as well as any information upon the subject the department may wish to communicate.

In reply, I have the honor to state that the affairs of these Indians was made the subject of a report to the department dated the 4th ultimo, a copy of which is herewith inclosed for the information of the said committee, as showing the views held by this bureau in respect of the lands referred to in the bill under consideration, as well as the very urgent needs of the Indians who occupy and claim them.

It will be seen by reference to said report (pp. 9-10), that recommendation is therein made for legislation looking to the extinguishment of the Indian title to the lands claimed by these Indians, and for suitable compensation to the Indians for the lands that may be ceded by them to the government, so that the general features of this bill are in accord with the views held by this bureau in respect of the things therein treated. However, there are certain modifications required, and I therefore recommend the following:

At the end of line 6, first section, insert these words, "and the Pembina Chippewa Indians residing upon the White Earth Reservation, in the State of Minnesota."

The Pembina Chippewas, residing at the White Earth, claim a common interest with the Turtle Mountain band in the Dakota lands; such claim should be, and is, recognized by this bureau, and they have an undoubted right to share in the proposed negotiations in respect of the cession of said lands, and to receive an equal share in the benefits that may accrue from said cession.

Again, in line 8, same section, strike out the words "for a certain specified sum," and insert in lieu thereof the following: "On such terms and conditions as shall be

considered just and equitable between the United States and said Indians"; and add immediately thereafter the following: "which cession shall not be deemed and held to be complete until ratified by Congress; and the moneys agreed to be paid shall be appropriated and paid to said Indians or invested for their benefit, as the case may be."

As no appropriation is now made by Congress for the support of the Turtle Mountain band, the object of the second section is not clear. If said section be retained in the bill, it should be modified so as to be applicable to the Turtle Mountain band only, for the reason that the Pembinas living upon the White Earth Reservation receive a yearly gratuity from the government, and there is no reason for withholding such gratuity from them. By inserting in line 2 of said second section, after the word "said" and before the word "Indians" the words "Turtle Mountain band of Pembina Chippewa" the desired object would be reached.

Further, in line 3, section 3, after the word "the" and before the word "Indians" insert "said Turtle Mountain band of Pembina Chippewa," and after the word "Indians just referred to and before the words "White Earth Reservation," having stricken out the word "on," insert the following: "For their removal to and settlement upon the," and in lines 4, 5, and 6 strike out the words "for the location of said Turtle Mountain Pembina Chippewa Indians on said White Earth Reservation." Also, in line 7, same section, after the word "not" and before the word "remove" insert the words "consent to," and in same line strike out the words "or if" and also all that follows immediately thereafter to the word "then" (not inclusive of the word "then") in line 9, so that the third section as amended shall read as follows:

"SECTION 3. That the Secretary of the Interior or the commissioners aforesaid be, and are hereby, further authorized to negotiate with the said Turtle Mountain band of Pembina Chippewa Indians for their removal to and settlement upon the White Earth Reservation, in the State of Minnesota: *Provided*, that if the said Turtle Mountain Pembina Chippewa Indians will not consent to remove to said reservation, then the Secretary of the Interior" (and the remainder of the section as it now reads).

The reasons for the modifications of the third section as above are as follows:

The Pembina Chippewas, including the Turtle Mountain band, have at the present moment a township of land upon the White Earth Reservation that was purchased for them under the act of March 3, 1873. (17 Stat., p. 539.) Therefore the proposed legislation looking to negotiations with the White Earth Indians for the settlement of the Turtle Mountain band upon said reservation is regarded as unnecessary.

In section 4, line 3, after the word "the" and before the word "said" insert the words "agent at Devil's Lake Agency, or such other person as", and after the word "Interior," in line 4, same section, strike out the words "or the commissioners herein provided for," and insert in lieu thereof the words "may designate for the purpose"; so that the first clause of said section, as amended, shall read as follows:

"SEC. 4. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agent at the Devil's Lake Agency, or such other person as the Secretary of the Interior may designate for the purpose, shall select for each orphan child."

In section 6, line 1, after the word "said" and before the word "Indians" insert "Turtle Mountain band of Pembina Chippewa."

As regards section 8 of the bill, which provides that "immediately upon the passage of this act" certain of the lands claimed by the Indians and therein described shall be open to entry and settlement, I would state that while said section might seem objectionable on the ground that the consent of the Indians is not made a prerequisite condition thereof, there are potent reasons that may properly be urged to justify the proposed action.

A large immigration, attracted by the profits of wheat-raising, has for the last two years been pouring into Northeastern Dakota, extending their settlements to the lands claimed by the said Indians in the counties of Pembina, Cavalier, Ramsey, and Grand Forks, the counties mentioned in said eighth section. Portions of these counties are already overrun with settlers of a worthy class eager to cultivate the soil, which in that section promises the largest returns at a minimum cost of labor.

Numerous petitions and appeals have been received from settlers and others for some action looking to the extinguishment of the Indian title to these lands, a title which, while it has long been recognized by this bureau on the ground of original Indian rights, and that the lands have never been ceded to the United States by any Indian tribe or tribes, as in the case of adjacent lands ceded from time to time, the whites have held that the Indians have no real title, and that their claim should not be respected. For which reason, perhaps, taken in connection with the fact that the Indians themselves have never of late years made any good use of these lands, indeed, no use whatsoever since the disappearance of the buffalo (I speak now of the lands lying north and northeast of Devil's Lake), no attempt has been made to keep settlers from occupying the same.

Again, the vastness of the area claimed by these wandering people, and the absence of any definite knowledge respecting their original rights as against the various other

tribes that have inhabited that section of the Northwest, have tended in a degree no doubt to lessen the respect that, under other conditions, might have been entertained in regard to their claim to title to the lands in question. Add to this the fact that these Indians have steadfastly resisted the persistent efforts that have been made to gather them upon the White Earth Reservation, where they might receive proper care and assistance from the government, and have preferred to lead a shiftless, aimless life where they now are, and it may not be a matter of surprise that the strictest surveillance has not been had in respect of encroachments upon the lands to which they lay claim, or that they themselves have been to some extent neglected.

It is true one of their main objections to removal to White Earth has been the fear that an abandonment of their lands might be looked upon as a relinquishment of their claim, and in that light of the case their feelings are entitled to some respect.

However, this office now, as heretofore, feels bound to recognize the claim of these people, and as it is the chief desire of the Indians, and this bureau as well, to secure permanent homes and the necessary means for their support until such time as they may be able to take care of themselves in the pursuits of civilized life, and as it is known beyond any reasonable doubt that the Indians will not be exacting, but will gladly accept any reasonable terms that may be offered them, and believing further that Congress will not fail to promptly ratify any proper agreement that may be entered into under the provisions of the first section of the bill, this office is strongly inclined to favor the provisions of the last section, in the interest of the very large immigration now seeking that country and the settlers already there; provided, however, that said section (8th) be so amended as to include in its proposed benefits any Indians having improvements upon said lands.

It is not known that there are any such, but for the protection of any there may be, such amendment should be inserted.

The following is proposed:

At the end of the section (8) add: "*Provided*, That all Indians having improvements upon any of said lands, who would be entitled to allotments under sections 3 and 4 of this act, and who may desire to remain permanently in the enjoyment thereof, shall not be dispossessed of the lands upon which such improvements are situated by anything in this section contained, but shall be entitled to select their allotments as in said sections 3 and 4 provided; which allotments shall be subject to the provisions and restrictions of sections 5 and 6, in respect of allotments therein referred to."

In conclusion I would state that H. R. 3862, present Congress, "A bill for the relief of the Chippewa Indians in the State of Minnesota and Territory of Dakota," provides, among other things, for negotiations looking to the removal of the Turtle Mountain band to the White Earth Reservation and consolidation with the Indians now residing there; also for the relinquishment of their title, for a certain sum, to their Dakota lands. Should both bills pass, no conflict would result, as they are not inconsistent with each other.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

To the Hon. the SECRETARY OF THE INTERIOR.