

PIPESTONE INDIAN RESERVATION, MINNESOTA.

AUGUST 8, 1888.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 10544.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 10544) for the disposition of the agricultural lands embraced within the limits of the Pipestone Indian Reservation in Minnesota, submit the following report:

The accompanying letter from the Commissioner of Indian Affairs, in response to a letter of inquiry from this committee, fully sets forth and explains the whole subject-matter of the bill, and your committee concur in the views expressed by the Commissioner, and adopt and recommend the passage of the substitute proposed by him and hereto appended.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 31, 1888.

SIR: I am in receipt of a communication from Hon. S. W. Peel, chairman of the Committee on Indian Affairs, House of Representatives, dated July 26, 1888, in which he incloses House bill 10544, "for the disposition of the agricultural lands embraced within the limits of the Pipestone Indian Reservation in Minnesota," and requests the views of this office in full.

The first section directs the Secretary of the Interior to appoint three discreet persons who are residents and freeholders of the State of Minnesota to appraise and report to him the actual value, exclusive of improvements, of certain described tracts of lands embraced within the exterior boundaries of the Red Pipestone Reservation in Minnesota, and also to appraise and report the value of any improvements found on any of said lands, with the name of the person who made the same.

Section 2 provides that any person who has heretofore resided on and made improvements on any of said lands, but who was compelled by the military authorities of the United States to abandon the same, shall be entitled to the prior right, for the period of six months after the filing of said report, to enter and purchase the land (not exceeding 160 acres) so occupied and improved by such person, at the appraised value of the same.

In case the person entitled to purchase any tract fails to avail himself of the privilege within the time stated, the Secretary of the Interior is required to cause the unentered lands to be sold to the highest bidder, at not less than the appraised value of such lands and improvements, such sale to be held at the local land office.

Section 3 provides that the act shall take effect only upon the consent thereto of a majority of the adult Indians of the Yankton tribe of Sioux Indians, and that the moneys arising from the sale of said lands after deducting the expense of said appraisal shall be covered into the annuity fund of said Indians; and that the commissioners shall each be paid the sum of \$5 per day for the time actually occupied in performing the duties imposed upon them.

Section 4 appropriates the sum of \$200 or so much thereof as may be necessary to defray the expenses of procuring the consent of the Indians and to pay the commissioners.

The 8th article of the treaty between the United States and the Yankton tribe of Sioux or Dacotah Indians, concluded April 19, 1858 (11 Stats., 743), provides that said "Yankton Indians shall be secured in the free and unrestricted use of the Red Pipestone Quarry, or so much thereof as they have been accustomed to frequent and use for the purpose of procuring stone for pipes; and the United States hereby stipulates and agrees to cause to be surveyed and marked so much thereof as shall be necessary and proper for that purpose, and retain the same and keep it open and free to the Indians to visit and procure stone for pipes so long as they shall desire."

Pursuant to the provisions of this article, the reservation was surveyed in August, 1859, and copies of the plats and field-notes were transmitted by this office to the General Land Office, November 21, 1859, with the request that the exterior boundaries of said reservation might "be respected upon the books" of that office.

The reservation is situated in townships 106 and 107 north, range 46 west, the exterior lines of which were surveyed in 1858.

The subdivisional survey of township 106 was made in the field between September 27 and October 4, 1870, and was approved by the surveyor-general November 1, 1870.

The subdivisional survey of township 107 was made in the field between October 6 and 10, 1870, and was approved by the surveyor-general November 3, 1870.

These surveys were extended over the Red Pipestone Reservation without respecting it.

On the 9th of July, 1872, the attention of the surveyor-general of Minnesota was called to the fact just stated, by the General Land Office, and he was directed to take the steps necessary to enable him to lay down the reserve upon the township plats, according to its limits by plat and field-notes furnished his office February 13, 1860.

On July 29 and 30, 1872, a deputy surveyer resurveyed said reservation and connected it with the lines of the public survey. From said resurvey new plats of those townships were prepared and approved by the surveyor-general August 15, 1872.

In the meantime, on the 15th of July, 1871, one August Clauson or Clunson was permitted by the local land officers to locate upon southwest quarter of section 1, township 106, range 46 west, a piece of Louisiana agricultural college scrip, and on the 15th of May, 1874, a patent was issued to him for said quarter section.

Suit in equity was subsequently brought in the United States circuit court to vacate said patent.

The defendants demurred to the bill for want of equity; the demurrer was sustained and the bill dismissed at the June term, 1880. The suit was carried to the United States Supreme Court on appeal, and at the October term, 1884 (111 U. S. Reps., 347), the decree was reversed, with directions to overrule the demurrer, the defendant to have leave to answer.

The opinion, however, virtually covered the merits of the case and established the legal character of the reservation.

The northwest quarter of said section was located by Henry T. Davis with Texas agricultural college scrip, but the location was canceled November 6, 1875.

The northeast quarter of section 2, township 106, was entered by Job Whitehead under the timber-culture laws, June 21, 1874, but this entry was also canceled August 8, 1874.

Other attempts were made to enter lands on the reservation but the applications were rejected by the local land officers.

In October, 1887, certain parties who had been residing upon the reservation and had made improvements thereon were removed, with the aid of the military, under authority granted by the Department March 3, 1887.

The Cedar Rapids, Iowa Falls and Northwestern Railway also passes through the reservation, a map of definite location having been approved by the Secretary of the Interior December 30, 1884, "as to such portions as fall outside the limits of said reservation."

This office, however, was not advised of the construction and operation of this road until October, 1887, since which time it has called upon the company operating it to apply to Congress for a grant of a right of way, and a bill (H. R. 10766) for that purpose is now pending in the Committee of the Whole House.

It is claimed that this reservation (1 mile square) is much larger than is required by the object for which it was reserved.

This office has experienced great difficulty in keeping intruders from the reserved lands, but has always resisted any attempt to take any portion of the reservation from the Indians without their consent.

As the bill under consideration provides that the consent of the Indians shall be

obtained before it can take effect, I see no objection to its passage, with certain modifications.

The bill requires that all of the three appraisers shall be residents and freeholders of the State of Minnesota. I do not think the Secretary should be restricted in his choice to the State in which the reservation is located, as to each of the commission, but that he should be allowed to select at least one from the employes of his Department or elsewhere as he may deem expedient.

The bill provides that certain tracts may be acquired from the Indians. If they desire to retain any one of these tracts, but are willing to dispose of others, they will be unable to do so. They must cede all the tracts described or none.

Negotiations should be allowed as to any or all the tracts within the reservation except that on which the quarry is located (southwest quarter of section 1, township 106).

Provision should be made for appraising the right of way of the railroad company by the commissioners who appraise the lands.

The third section of the act provides that the moneys arising from the sale of the lands and right of way, after deducting the expenses of the appraisal, shall be covered into the annuity fund of the Indians.

It is possible that the Indians might prefer that a portion at least of the funds should be expended in protecting and preserving their ancient quarry. It is therefore suggested that the funds arising from the sale of the lands, etc., be disposed of in such manner as the Indians may determine, subject to the approval of the Secretary of the Interior.

The amount of the appropriation contained in the fourth section should be increased to \$500.

I have prepared a substitute for the bill in accordance with the foregoing views, and have the honor to recommend that it be transmitted to the chairman of the committee with a copy of this report.

Very respectfully, your obedient servant,

A. B. UPSHAW,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

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