

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

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

REPORT:

[To accompany bill S. 323.]

The Committee on Indian Affairs, having had under consideration Senate bill No. 224; Senate joint resolution No. 4, and Senate bill No. 1124, all for the relief of the Winnebago Indians of Wisconsin, report:

The committee recommend the indefinite postponement of Senate bill No. 224 and joint resolution No. 4, and recommend the passage of Senate bill 323, with amendments.

The Winnebago tribe of Indians formerly resided within the limits of the State of Wisconsin, and by various treaties on and prior to June 16, 1838 (Revised Indian Treaties, 1001), conveyed to the United States all of their lands in that State. By the treaty of June 16, 1838, the United States ceded to them a tract of land in the Territory of Minnesota known as the neutral lands, and to which a claim in their behalf attached under one of the former treaties.

By the treaty of 1846 (*Ibid.*, 1004), the title of the Winnebagoes to the neutral lands was extinguished, and, in part consideration therefor, they were given a tract of land on the Saint Peter's River, in Minnesota, estimated to contain about 879,600 acres. Their title in this tract was entirely extinguished by the treaty of 1855 (*Ibid.*, 1006), and in full compensation for the same the United States agreed to give them \$70,000, and to grant them, as a permanent home, a tract of land equal to eighteen miles square on Blue Earth River, in one of the most fertile regions in Minnesota, to which they removed, and where they were immediately surrounded and pressed upon all sides by the whites.

Again, by treaty of 1859 (page 1011), in order to aid in their civilization, and at the request of the tribe, townships 106 and 107, ranges 24 and 25, and the two strips of land immediately adjoining on the east and north, within their reservation, were authorized to be allotted in severalty to the members of the tribe, and it was provided that the remainder of their lands should be sold and the proceeds applied to their benefit.

Under these provisions allotments in severalty were made in 1861, and certificates issued to them. At the outbreak of the rebellion in 1861, numbers of the Winnebagoes enlisted in the Army, and during the Sioux outbreak of 1862 the tribe maintained the most friendly relations with the whites. Their lands, however, were very desirably located for settlement, and the settlers commenced a series of encroachments against the Winnebagoes, which finally rendered their condition unsafe, so that it became necessary to remove the tribe from the State.

An act was accordingly passed by Congress, on the 21st of February, 1863 (12 Statutes, p. 658), providing for their removal and the sale of their lands for their benefit, and they were removed to the Missouri River in Dakota. On account of the proximity of this location to the Sioux, who were hostile to them, and their remoteness from the whites, among whom they preferred to live, the tribe became dissatisfied, and large numbers of them returned to the States, about one-half of whom settled in Wisconsin, as stated by the Commissioner of Indian Affairs, in a communication addressed to the committee.

Another treaty was made with the tribe in 1866 (see page 1014, Revised Indian Treaties), whereby the tribe was gathered together and settled upon a reservation in Nebraska, where they now reside.

Arising from these treaties, the Winnebagoes, as a tribe, have a fund of \$883,249.58 in the Treasury, the income of which, at 5 per cent., is, by treaty provision, to be distributed to them in cash or supplies, as the President may direct.

By act of June 25, 1864 (13 Statutes, p. 172), it was provided—

That the proportion of annuities to which the stray bands of Winnebago Indians would be entitled, if on their reservation, should be retained in the Treasury to their credit, from year to year, to be paid to them when they should reunite with their tribe, or to be used by the Secretary of the Interior in settling and subsisting them on any other reservation which might thereafter be provided for them.

The fund herein provided for was not reserved until 1876, when, by direction of Secretary Chandler, their estimated proportion ($\frac{1}{2} \frac{0.00}{5.31}$) of the tribal annuities was retained, and has since been retained for them, amounting at the present time, in this proportion, to \$48,249.17. This sum remains in the Treasury awaiting the direction of Congress.

The annuities so far to the tribe, from 1864 to 1875, inclusive, amount to \$641,312.78, all of which, with a single exception, has been paid to the Winnebago Indians of Nebraska. Assuming that the tribe in Wisconsin would be entitled to their *pro rata* share, they ought to have received of this amount \$253,383.12.

In 1873 and 1874 an appropriation was made (18 Statutes, p. 170) for the removal of the Winnebagoes of Wisconsin to a reservation to be purchased for them in Nebraska, adjacent to the reservation now occupied by the remainder of the tribe. There was expended in this removal, and subsistence and purchase of lands, \$154,624.49, and retained to be expended in settling them on their new lands, \$26,131.13, and about 860 of them were removed to Nebraska. The Wisconsin Winnebagoes, however, were dissatisfied with their new location, and all but two hundred and four of them returned to Wisconsin prior to January, 1876.

The Commissioner of Indian Affairs reports that there is now in the Treasury to the credit of the tribe, accruing under treaty appropriations for the fiscal year 1873 and prior years, the sum of \$40,406.42, from which a sufficient amount should be withdrawn and paid to the Wisconsin band to equalize the payments heretofore made in excess to the tribes in Nebraska.

During the last fiscal year there was appropriated to the tribe in Nebraska the sum of \$29,260.68, and to the Wisconsin Winnebagoes \$14,901.79.

The committee, therefore, recommend the payment to the Wisconsin Winnebago Indians of \$48,249.17, now in the Treasury, belonging to them, together with a sufficient sum to equalize the payments hereinbefore alluded to.

The committee also recommend that the proportion of annuity funds

accruing from year to year hereafter should be applied to the Winnebagoes in Wisconsin, until they shall have been refunded the amount due them under the act of 1864.

The bill provides for a careful census of the Indians in Wisconsin, as well as the Winnebagoes in Nebraska, in order that a just division may be made.

By an act passed March 3, 1875 (18 Stats. at Large, 420), it is provided that any Indian now in the United States, who is the head of a family, or arrived at the age of twenty-one years, and who afterwards abandons his tribal relations, shall be authorized to take a homestead under the homestead laws, and shall still be entitled to receive his proportion of the tribal annuities. These Winnebagoes of Wisconsin, to the number of about two hundred, have taken, and others are desirous of taking, homesteads under this provision of the act of 1875, and therefore the provisions of the bill apply only to such as have taken or shall take homesteads, having been carefully constructed for such Indians only.

A section is added against the alienation of these lands for a period of twenty years. This provision is considered necessary to protect the Indians having homesteads. The bill has been submitted to the Interior Department, and receives the sanction of the Commissioner of Indian Affairs and the Secretary of the Interior.

The committee, therefore, recommend its passage, with a single amendment to the last section, which is herewith reported.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington, April 13, 1878.

SIR: I am in receipt of a letter from the Hon. Angus Cameron, United States Senate, dated January 9, 1878, inclosing, with other papers, for the consideration of this office, Senate Resolution No. 4, entitled "Joint resolution to aid the Winnebago Indians to obtain subsistence by agricultural pursuits, and to promote their civilization," and also Senate bill No. 224, bearing the same title.

Copies of the resolution and bill above named were referred to this office by the Hon. W. B. Allison, chairman Senate Committee on Indian Affairs, and a report made thereon to the department on the 22d of February last, with regard only to the proposed appropriation of money.

There are, however, certain features of the case presented by the letter of the Hon. Mr. Cameron, and accompanying papers, to which the attention of the office was not called by the communication of Senator Allison, which require consideration and the suggestion of further legislation to meet the requirements of the case.

It appears from the papers presented that some two hundred of the Winnebagoes of Wisconsin have taken homesteads in that State under the act of March 3, 1875, and now desire, among other things, to secure the payment to them of certain funds in the Treasury of the United States to their credit, together with an additional amount of fifty dollars each, to be drawn from the principal funds of the tribe; such payments to be made in anticipation of the benefits to accrue to them under the act above named upon completion of their homestead title to the lands upon which they are located.

In order to reach a correct understanding in the matter, and with a view to securing comprehensive legislation with regard to these Indians, it appears to be proper to lay before Congress and the department that portion of their tribal history connected with the creation of the funds of the Wisconsin band, and of the tribe in general.

The Winnebago Indians, formerly residing within the present limits of the State of Wisconsin, by various treaties, on and prior to June 16, 1838 (Revised Indian Treaties, 1001), conveyed to the United States all of their lands in that State; the United States, by the treaty of June 16, 1838, ceding to them a tract of land in the Territory of Minnesota known as the *neutral lands*, and to which a claim in their behalf attached under one of the former treaties.

By the subsequent treaty of 1846 (*Ibid.* 1004) the title of the Winnebagoes to the neutral lands was extinguished, and, in part consideration therefor, they were given a tract of land on the St. Peter's River, in Minnesota, estimated to contain 879,600 acres.

Their title to this tract was in turn extinguished by the treaty of 1855 (*Ibid.*, 1006), and in full compensation for the same the United States agreed to give them \$70,000 and to grant them as a permanent home a tract of land equal to eighteen miles square on the Blue Earth River, in one of the most fertile regions in Minnesota, to which they removed, and where they were immediately surrounded and pressed upon all sides by the whites.

It was provided by the treaty of 1859 (*Ibid.*, 1011), in order to aid in their civilization, and at the request of the tribe, that townships 106 and 107, in ranges 24 and 25, and the two strips of land immediately adjoining on the east and north, within their reservation, should be allotted in severalty to the members of the tribe, and that the remainder of their lands should be sold and the proceeds applied to their benefit. Under these provisions allotments in severalty were made in 1861, and certificates therefor issued to them. At the outbreak of the rebellion in 1861 numbers of the Winnebagoes enlisted in the Army, and during the Sioux outbreak of 1862 the tribe maintained the most friendly relations with the whites. Their lands, however, were very desirably located for settlement, and, urged on by a desire to obtain the lands and by their exasperation against the Indians in general, growing out of the Sioux outrages, the settlers commenced a series of encroachments and wrongs against the Winnebagoes, which finally rendered their condition so unsafe, that it became necessary to remove the tribe from the State. An act was accordingly passed by Congress on the 21st of February, 1863 (12 Stats., p. 658), providing for their removal and the sale of their lands for their benefit, and their removal to a reservation at Usher's Landing, on the Missouri River, in Dakota, was effected during the summer of 1863.

On account of the proximity of this location to the Sioux, who were hostile to them, and their remoteness from the whites, among whom they preferred to live, the tribe became greatly dissatisfied, and large numbers of them returned to the States, about one thousand of whom settled in Wisconsin.

The remainder of the tribe were gathered together under the treaty of 1866 (*Ibid.*, 1014), and settled upon a reservation in Nebraska, where they are now residing.

Arising from these treaties the Winnebagoes, as a tribe, have a fund of \$883,249.58 in the Treasury, the income of which, at five per cent. is, by treaty provision, to be distributed to them in cash or supplies, as the President may direct.

By act of June 25, 1864 (13 Stats., p. 172), it was very justly provided "that the proportion of annuities to which the stray bands of Winnebago Indians would be entitled if on their reservation should be retained in the Treasury to their credit from year to year, to be paid to them when they should reunite with their tribe, or to be used by the Secretary of the Interior * * * in settling and subsisting them on any other reservation which might hereafter be provided for them."

For some reason not known to me no steps were taken under this act to create a reserve fund for the stray bands, all or nearly all of whom were in Wisconsin, until 1876, when, by direction of Secretary Chandler, their estimated proportion ($\frac{1}{10}$) of the tribal annuities was and has since been retained for them, amounting at the present time to \$48,249.17, and which remains in the Treasury awaiting directory action by Congress.

The total annuities of the tribe from 1864 to 1875, inclusive, amount to \$641,312.78, all of which, with the exception hereafter named, has been paid to the Winnebagoes of Nebraska.

On the basis above given the share of the Wisconsin band would have been \$253,383.12.

In 1873 and 1874 about 860 of the Wisconsin band were removed to the tribal reservation in Nebraska, but of this number all but 204, together with other members of the tribe, had returned to Wisconsin prior to January, 1876.

There was expended in their removal and subsistence, and in the purchase of lands for them and improvements thereon, \$154,624.49, and there was retained to be expended in settling them on their lands in Nebraska \$26,131.13, all of which latter sum, together with the money expended in the purchase of lands, \$30,868.87, and \$16,718.75 expended in the erection of houses, or a total of \$73,708.75, has inured to the benefit of the Winnebagoes in Nebraska. Out of the \$253,383.12 to which the band under consideration are entitled under the treaty of 1864 they have therefore had \$107,036.87, which is properly chargeable against them, leaving \$146,346.25 due to the Wisconsin band under the act of 1864 all of which, as heretofore remarked, has been paid to the Winnebagoes in Nebraska.

During the year 1872, about \$100,000 of the principal fund of the tribe was withdrawn and paid to the Winnebagoes in Nebraska. There is now in the Treasury to the credit of the tribe, accruing under treaty appropriations for the fiscal year 1873 and prior years, the sum of \$40,406.42, from which a sufficient amount should be withdrawn and paid to the Wisconsin band to equalize the above payment to those in Nebraska.

The apportionment of annuity moneys between the bands the present year, was as follows:

To the Nebraska Winnebagoes	\$29,260 68
To the Wisconsin Winnebagoes	14,901 79

While I do not, as remarked in my former letter, favor the reduction of the principal fund of the tribe as proposed by Senate bill 224, it appears proper that measures should be taken for the payment to the Wisconsin Indians of the \$47,249.17 now in the Treasury belonging to them, with the sum heretofore proposed in equalization.

The department should also be authorized by law to withhold from the Nebraska Winnebagoes a certain proportion of their annuity moneys each year and pay the same to the Winnebagoes of Wisconsin, until the latter shall have been refunded the amount due them under the act of 1864.

As the Nebraska Indians have had nearly a million dollars expended for their benefit in the last fourteen years, I think this course may be pursued without serious detriment to them. It will, at the same time, in addition to the yearly proportion due the Wisconsin band from the annuity fund, for the payment of which legislation is also recommended, afford the latter the necessary funds for their successful location as contemplated in the bill.

Substantial justice to both bands will thus be secured, and at the same time the permanent investment of the tribe will be preserved intact.

A large proportion of the Winnebagoes of Wisconsin must be represented by those who have taken homesteads, and their settlement under the provisions of the act is in legal effect a division of the tribe, necessitating a census of the same for the purpose of effecting a proper division of their annuities in the future between the two bands.

It appears from the petition of the Indians, filed by Senator Cameron, that the Indians desire the funds requested for the purpose of paying entry fees for their lands, purchasing agricultural implements, stores, &c., and to establish schools for the education of their children; and they ask to be allowed to transact their own business without the intervention of an agent.

In my judgment the business which they have to transact, the purchases to be made, the homesteads to be selected, and the establishment of schools, could be more wisely accomplished under the direction of an agent than otherwise; and I am also of the opinion that the title to the lands acquired by them under the act of 1875 should be inalienable for the period of at least twenty years from completion of title, and that they should not be subject to taxation by the State or otherwise, and that the lands should not be subject to sale under judgment rendered in any court.

For the purpose of meeting the various requirements in this matter, I have the honor to submit the accompanying draft of a bill, with the recommendation that it be adopted in lieu of the resolution and bill under consideration. I also inclose copies of the resolution and bill under consideration, with a copy of the letter of Hon. Angus Cameron, with its inclosures.

I have the honor to be, sir, very respectfully, your obedient servant,

WM. M. LEEDS,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

S. Rep. 253—2