52D CONGRESS, 1st Session. } SENATE. { REPORT No. 240.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1892.—Ordered to be printed.

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

REPORT:

[To accompany S. 574.]

The Committee on Indian Affairs, to whom was referred the bill (S. 574), to change the boundaries of the Uncompahgre Indian Reservation, have examined the same and report a substitute therefor, with a recommendation that it pass.

Since the land mentioned in this bill was included within the Uncompahgre Ute Reservation it has been discovered to contain large and valuable veins of gilsonite or asphaltum. The discovery does not appear to have been made by any particular person or under any such circumstances as gives any particular person the least equitable claim beyond the general public; neither could any private parties have acquired by any attempted location or settlement or other form of claim the slightest right to any special preference or recognition on the part of the Government. In opening these lands to the public, therefore, two principles ought to receive acknowledgment; the one that the value of these mineral veins belongs to the general public and ought to be enjoyed, by receiving to the credit of the general public account their money worth and not be allowed to pass under some pretext of disposition to the enrichment of private parties through any favoritism of legislation or administration, and the other that an equal opportunity ought to be afforded to all citizens to obtain upon equal terms these valuable mineral lands.

There seems no other practicable way to accomplish these objects but to dispose of the lands to the highest bidder at auction. All other modes of disposition of public lands now provided by law are merely farcical when applied to such a case as this. The mineral laws are not adapted in nature to lands of this kind, because the gilsonite or asphalt is easily discoverable and requires no such protracted and costly exploration as must be given, or as usually is given, by those who seek for gold or silver or other mineral.

The consent of the Indians is not required to this disposition, nor is provision due that the proceeds of the sales shall be set apart to the use of the Indians, for the following reasons:

The Uncompahgre Utes, in the first place, have no right in this reservation except the right to an allotment of agricultural land, for which the United States must be paid, out of the tribal funds derived from the proceeds of the lands ceded by the Utes in Colorado, the sum of $1.25 per

acre; and, secondly, because the Utes are already provided with sufficient tribal funds for their needs. That they have no claim to these lands will appear from an examination of the agreement made with them for the cession of their lands in Colorado and their removal to Utah, and the acts of Congress on the subject. It was simply agreed that the Uncompahgre Utes should remove to and settle upon agricultural lands on Grand River, near the mouth of the Gunnison River, in Colorado, if a sufficient quantity of agricultural land should be found there, and if not, then upon such other unoccupied agricultural lands as may be found in that vicinity and in the Territory of Utah, and that allotment of agricultural and grazing land should be made to the different members of the tribe in specific quantities, respectively; but it was provided that the United States should be reimbursed at the rate of $1.25 per acre for all such lands so allotted to these Indians out of the proceeds of the lands which the Utes ceded to the United States in Colorado. Thus it becomes apparent that not only did the Uncompahgre Utes take by their agreement no right to any lands in Utah, except the right to have allotments made to them, but that even for the allotments the United States were to be reimbursed because of the fact that the Indians have the proceeds realized from the sale of their lands in Colorada. Nor did the agreement or the statute make any provision for this reservation or for any rights in other land than such as should be allotted. (21 Stat. L., p. 199.)

The commission appointed for the purpose of executing the agreement was abolished by Congress (22 Stat. L., 449) before having completed all the work of allotment agreed upon, and perhaps these Indians were not then ready to enter upon the advanced condition which individual allotment implies and requires. An executive order was therefore made on the 5th of January, 1882, directing that a certain tract of country, which embraced the lands mentioned in this bill, should be "withheld from sale and set apart for a reservation for the Uncompahgre Utes." This gave no title, but was a provision to answer the execution, at a suitable future time, of the agreement with them. The lands embraced within this reservation amount to 1,933,440 acres (Report Indian Commissioner of 1890, p. 443), while the entire number of the Uncompahgre Utes is but 988 persons, according to the enumeration reported in 1890 (same volume, p. 419). Two hundred thousand acres will be sufficient to make all the allotments required by law. Besides, the lands proposed to be disposed of under this bill are not of a nature suitable for allotment, being generally rough and mountainous.

Nor does there appear to be any necessity, or any just obligation so arising, on the part of the Government to apply the proceeds of these lands to the creation of another fund for these Indians. The 5 per cent fund of the Utes is now $500,000, and the 4 per cent fund $1,250,000, the two yielding $75,000 a year annual interest (same report, p. 426). In these funds the Uncompahgre Utes share with the Uintahs, the Southerns, and the White River Utes. They are also within the provision which authorizes the President to distribute $4,000 a year to those manifesting special excellence. They will share, besides, in all the residuary proceeds resulting from the sale of the Ute lands ceded in Colorado, after the United States shall have been reimbursed.

There appears, therefore, no reason for requiring the assent of the Indians to this disposition of mineral lands, which will not affect in any way their rights in the reservation, nor for putting the proceeds to their use. These justly belong to the general Treasury.

There remains for consideration only the questions whether the time has arrived for the United States to dispose of these mineral beds, and, if so, in what manner the disposition should be made, upon which the views of the committee have already been submitted.

The method of disposition now recommended is in accordance with that adopted by the Senate in the second session of the Fifty-first Congress for the disposition of the mineral lands now proposed to be sold in the bill (S. 4242, Fifty-first Congress, second session) which passed the Senate after the President returned with his objections the bill passed during the first session (S. 1762), but which, the House of Representatives having amended, failed to pass both branches of Congress.

S. Rep. 2——18