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Report of Commissioner of Indian Affairs, 1869

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REPORT OF COMMISSIONER OF INDIAN AFFAIRS.

REPORT

OF

THE COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington City, D. C., December 23, 1869.

SIR : As required by law, I have the honor to submit this, my first annual report of our Indian affairs and relations during the past year, with accompanying documents.

Among the reports of the superintendents and agents herewith, there will be found information, with views and suggestions of much practical value, which should command the earnest attention of our legislators, and all others who are concerned for the future welfare and destiny of the remaining original inhabitants of our country. The question is still one of deepest interest, "What shall be done for the amelioration and civilization of the race?" For a long period in the past, great and commendable efforts were made by the government and the philanthropist, and large sums of money expended to accomplish these desirable ends, but the success never was commensurate with the means employed. Of late years a change of policy was seen to be required, as the cause of failure, the difficulties to be encountered, and the best means of overcoming them, became better understood. The measures to which we are indebted for an improved condition of affairs are, the concentration of the Indians upon suitable reservations, and the supplying them with means for engaging in agricultural and mechanical pursuits, and for their education and moral training. As a result, the clouds of ignorance and superstition in which many of this people were so long enveloped have disappeared, and the light of a Christian civilization seems to have dawned upon their moral darkness, and opened up a brighter future. Much, however, remains to be done for the multitude yet in their savage state, and I can but earnestly invite the serious consideration of those whose duty it is to legislate in their behalf, to the justice and importance of promptly fulfilling all treaty obligations, and the wisdom of placing at the disposal of the department adequate funds for the purpose, and investing it with powers to adopt the requisite measures for the settlement of all the tribes, when practicable, upon tracts of land to be set apart for their use and occupancy. I recommend that in addition to reservations already established, there be others provided for the wild and roving tribes in New Mexico, Arizona, and Nevada; also, for those more peaceable bands in the southern part of California. These tribes, excepting the Navajoes in the Territory of New Mexico, who, under their treaty of 1868, have a home in the western part of the Territory to which they have been removed, have no treaty relations with the government, and if placed upon reservations it will be necessary that Congress, by appropriate legislation, provide for their wants, until they become capable of taking care of themselves. In the other Territories, as also in Oregon and the northern part of California, the

existing reservations are sufficient to accommodate all the Indians within their bounds; indeed, the number might with advantage be reduced; but in Montana there is urgent need for the setting apart, permanently, suitable tracts for the Blackfeet, and other tribes, who claim large portions of that Territory and are parties to treaties entered into with them last year by Commissioner W. J. Cullen, which were submitted to the United States Senate, but have not been finally acted upon by that body. Should the treaties be ratified the required reservations will be secured, greatly to the benefit of both Indians and citizens.

Before entering upon a *résumé* of the affairs of the respective superintendencies and agencies for the past year, I will here briefly notice several matters of interest which, in their bearing upon the management of our Indian relations, are likely to work out, judging from what has been the effect so far, the most beneficial results.

Under an act of Congress approved April 10, 1868, two millions of dollars were appropriated to enable the President to maintain peace among and with various tribes, bands, and parties of Indians; to promote their civilization; bring them, when practicable, upon reservations, and to relieve their necessities, and encourage their efforts at self-support. The Executive is also authorized to organize a board of commissioners, to consist of not more than ten persons, selected from among men eminent for their intelligence and philanthropy, to serve without pecuniary compensation, and who, under his direction, shall exercise joint control with the Secretary of the Interior over the disbursement of this large fund. The commission selected in accordance with this provision of the law, composed of the following gentlemen, George H. Stuart, William Welsh, W. E. Dodge, E. S. Tobey, John B. Farwell, Robert Campbell, Felix R. Brunot, Henry S. Lane, and Nathan Bishop, met in this city in May last, and after deliberating upon the points suggested for their consideration, as embraced in my letter to them, dated the 26th of May, (a copy of which is among the papers accompanying this report, marked A, as is also a copy of the Executive order of June 3 in the matter, marked B,) involving the legal status of the Indians, their rights, and the obligations of the government toward them; the propriety of any further treaties being made; the expediency of a change in the mode of annuity payments, and other points of special interest, they decided as preliminary to future operations, and for the more convenient and speedy discharge of their duties, upon dividing the territory inhabited by Indians into three sections, and appointed sub-committees out of their number to visit each, and examine into the affairs of the tribes therein, and to report at a meeting to be held in Washington prior to the coming session of Congress. I herewith submit (marked C) the report of the commission, recently received, with reports from the sub-committee, F. R. Brunot, esq., chairman; also from Vincent Colyer, esq., and John V. Farwell, esq., members of the commission, relating to the condition of affairs among the tribes of New Mexico, Arizona, Utah, some of the tribes in Kansas, those in the Indian country south of Kansas, and those in Alaska Territory, and communicating interesting facts in their history, as also submitting suggestions for their welfare and improvement, deemed to be of great importance, and which should receive careful consideration.

In regard to the fund of two million dollars referred to, it may be remarked that it has enabled the department to a great extent to carry out the purposes for which it was appropriated. There can be no question but that mischief has been prevented, and suffering either relieved or warded off from numbers who otherwise, by force of circumstances,

would have been led into difficulties and extreme want. By the timely supplies of subsistence and clothing furnished, and the adoption of measures intended for their benefit, the tribes from whom the greatest trouble was apprehended have been kept comparatively quiet, and some advance, it is to be hoped, made in the direction of their permanent settlement in the localities assigned to them, and their entering upon a new course of life. The subsistence they receive is furnished through the agency of the commissary department of the army, with, it is believed, greater economy and more satisfaction than could have resulted had the mode heretofore observed been followed. In this connection I desire to call attention to the fact that the number of wild Indians and others, also not provided for by treaty stipulations, whose precarious condition requires that something should be done for their relief, and who are thrown under the immediate charge of the department, is increasing. It is, therefore, a matter of serious consideration and urgent necessity that means be afforded to properly care for them. For this purpose, in my judgment, there should be annually appropriated by Congress a large contingent fund, similar to that in question, and subject to the same control. I accordingly recommend that the subject be brought to the attention of Congress.

With a view to more efficiency in the management of affairs of the respective superintendencies and agencies, the Executive has inaugurated a change of policy whereby a different class of men from those heretofore selected have been appointed to duty as superintendents and agents. There was doubtless just ground for it, as great and frequent complaints have been made for years past, of either the dishonesty or inefficiency of many of these officers. Members of the Society of Friends, recommended by the society, now hold these positions in the Northern Superintendency, embracing all Indians in Nebraska; and in the Central, embracing tribes residing in Kansas, together with the Kiowas, Comanches, and other tribes in the Indian country. The other superintendencies and agencies, excepting that of Oregon and two agencies there, are filled by army officers detailed for such duty. The experiment has not been sufficiently tested to enable me to say definitely that it is a success, for but a short time has elapsed since these Friends and officers entered upon duty; but so far as I can learn the plan works advantageously, and will probably prove a positive benefit to the service, and the indications are that the interests of the government and the Indians will be subserved by an honest and faithful discharge of duty, fully answering the expectations entertained by those who regard the measure as wise and proper.

I am pleased to have it to remark that there is now a perfect understanding between the officers of this department and those of the military, with respect to their relative duties and responsibilities in reference to Indian affairs. In this matter, with the approbation of the President and yourself, a circular letter was addressed by this office in June last to all superintendents and agents defining the policy of the government in its treatment of the Indians, as comprehended in these general terms, viz: that they should be secured their legal rights; located, when practicable, upon reservations; assisted in agricultural pursuits and the arts of civilized life; and that Indians who should fail or refuse to come in and locate in permanent abodes provided for them, would be subject wholly to the control and supervision of military authorities, to be treated as friendly or hostile as circumstances might justify. The War Department concurring, issued orders upon the subject for the information and guidance of the proper military officers, and

the result has been harmony of action between the two departments, no conflict of opinion having arisen as to the duty, power and responsibility of either.

Arrangements now, as heretofore, will doubtless be required with tribes desiring to be settled upon reservations for the relinquishment of their rights to the lands claimed by them and for assistance in sustaining themselves in a new position, but I am of the opinion that *they should not be of a treaty nature*. It has become a matter of serious import whether the treaty system in use ought longer to be continued. In my judgment it should not. A treaty involves the idea of a compact between two or more sovereign powers, each possessing sufficient authority and force to compel a compliance with the obligations incurred. The Indian tribes of the United States are not sovereign nations, capable of making treaties, as none of them have an organized government of such inherent strength as would secure a faithful obedience of its people in the observance of compacts of this character. They are held to be the wards of the government, and the only title the law concedes to them to the lands they occupy or claim is a mere possessory one. But, because treaties have been made with them, generally for the extinguishment of their supposed absolute title to land inhabited by them, or over which they roam, they have become falsely impressed with the notion of national independence. It is time that this idea should be dispelled, and the government cease the cruel farce of thus dealing with its helpless and ignorant wards. Many good men, looking at this matter only from a Christian point of view, will perhaps say that the poor Indian has been greatly wronged and ill treated; that this whole country was once his, of which he has been despoiled, and that he has been driven from place to place until he has hardly left to him a spot where to lay his head. This indeed may be philanthropic and humane, but the stern letter of the law admits of no such conclusion, and great injury has been done by the government in deluding this people into the belief of their being independent sovereignties, while they were at the same time recognized only as its dependents and wards. As civilization advances and their possessions of land are required for settlement, such legislation should be granted to them as a wise, liberal, and just government ought to extend to subjects holding their dependent relation. In regard to treaties now in force, justice and humanity require that they be promptly and faithfully executed, so that the Indians may not have cause of complaint, or reason to violate their obligations by acts of violence and robbery.

While it may not be expedient to negotiate treaties with any of the tribes hereafter, it is no doubt just that those made within the past year, and now pending before the United States Senate, should be definitely acted upon. Some of the parties are anxiously waiting for the fulfillment of the stipulations of these compacts and manifest dissatisfaction at the delay. Their ratification has been recommended heretofore by the Indian Bureau, and as nothing has since occurred to change the opinion then entertained in regard to them, excepting, perhaps, that with the Osages, concluded May 27, 1868, and the one made with the Sacs and Foxes of Missouri, connected with the Iowas, February 11, 1869, for reasons hereafter noticed, that recommendation is now renewed. The treaties referred to are: That with the Cherokees, concluded July 9, 1868, providing for the settlement of all their claims and demands against the United States; of the vexed question as to the disposition of their neutral lands; their right to other lands; the removal of ambiguities in the treaty with them of 1866; the settlement of questions between the

courts of the nation and the United States in reference to jurisdiction over Cherokee citizens, and for the abolishment of distinctions among the people; that with the small bands of Chippewas and Christian Indians or Munsees, entered into June 1, 1868, to enable them to dissolve their tribal relations, and join other tribes; that with the Creeks of September 2, 1868, supplemental to their treaty made in 1866, the chief ground of which, set forth in the preamble thereto, being the injustice done in the latter treaty in requiring on their part an absolute and unconditional surrender of one-half of the nation's domain, because of a liability of a forfeiture of their rights in consequence of the nation having made a treaty with the so-called Confederate States, no such requirement having been imposed upon the Cherokees and other tribes in the treaties concluded with them in 1866, who had also entered into treaty arrangements with the authorities of the rebel States; those with the Blackfeet nation of September 1, 1868; Shoshones, Bannacks, and Sheep Eaters, of September 24, 1868; Gros Ventres, of July 13, 1868, and River Crows, July 15, 1868, which provide for a cession of lands claimed by these several tribes in the Territory of Montana, and for their being located and sustained upon suitable reservations in that Territory; that with the Senecas and other Indians in the State of New York, of December 4, 1868, by which they agree to relinquish all their right to lands in Kansas, and all claims under their treaties of 1838 and 1842; it provides for the issuing of patents to whites occupying the lands in Kansas allotted to the New York Indians who removed there, and for paying the losses of said Indians by reason of having been driven from their homes; that with the Sacs and Foxes of Missouri and Iowas residing in Nebraska, made February 11, 1869, and that with the Ottoes and Missourias in the same State, of February 13, 1869, both of which stipulated for a sale of their lands, giving the St. Louis and Nebraska Trunk Railway Company the privilege of purchasing the same at \$1 25 per acre, and providing a new home for them in the Indian territory, south of Kansas; that with the Kaws or Kansas tribe, of March 13, 1869, providing for the sale of their lands to the Union Pacific Railway Company, and for the removal of the tribe to the Indian territory; and lastly, that of the Miamies in Kansas and Indiana, concluded March 9, 1869, for the adjustment of all claims against the United States and the settlement of all controversies between themselves.

In regard to the treaty with the Osages of May 27, 1868, against which serious objections have been made, I suggest that it either be modified, or another arrangement entered into with the tribe with a view to the purchase of their lands and their removal to the Indian territory. Desiring to ascertain the mind of the Osages in regard to this treaty, I instructed the superintendent of Indian affairs, Mr. Hoag, to visit them and hold a council upon the subject. A report of his interview with them has recently been received, and will be found among the papers herewith, numbered 122. It seems that the Indians are not dissatisfied with the treaty so much on the ground of there having been any undue influence brought to bear upon them by the commissioners who negotiated it, as that they believe the price stipulated to be paid for the land is not enough. Whether it is ratified or not, they wish to sell their lands and remove, for settlers now occupy them, taking even possession of the corn-fields of the Indians, cutting off the timber and otherwise infringing upon their rights. I trust that Congress will early legislate in this matter, that trouble and suffering may be prevented.

Hostilities to some extent, though not to that of war by tribes, have unfortunately existed more or less during the past year. In May and

June last some of the Cheyennes and Arapahoes attacked citizens of Kansas settled upon the Republican, Smoky Hill, and Saline Rivers, killing a number of men, women, and children, capturing others, and destroying or carrying off considerable property. The love of plunder and the spirit of revenge seem not to have been subdued in many of the Indians of these tribes by the chastisement they received heretofore, nor by the magnanimity of the government in promising to provide for and treat them as friendly if they would go upon their reservations. Active and severe measures by the military against them have resulted in the destruction of many, and compelled others either to surrender or come in and ask to be located upon a reservation with those of their people who are peaceably disposed. The discontented of the various bands of Sioux have also shown a determined spirit of antagonism to the government, in acts of occasional murder and depredations in Dakota and Wyoming Territories, but the main body of the Sioux who, under General Harney, were located on the great reservation provided for them by treaty stipulations, are comparatively quiet, and it is thought can be kept so, as well as induced to change their mode of life. In Montana a part of the Piegons have been on the war path, and apprehensions have been entertained of serious troubles; murders of citizens have been committed by other Indians, and citizens have retaliated, but the danger of a serious outbreak, it is believed, is past. With the wild and intractable Apaches, in Arizona, there seems to be a continual state of warfare and outrage which the military arm in use there is unable to wholly suppress, and this will be the case always, until these Indians can be induced to leave their almost inaccessible retreats and settle upon a reservation. Members of the Kiowas and Comanches have been renewing their attacks upon citizens of Texas and their property, but no extensive raiding by the tribes, as in former years, has occurred during the past year, nor have other tribes had as much cause for complaint against these bands as heretofore. The Apaches and Navajoes have also been charged with outrages against citizens of New Mexico, and so troublesome have they been that the governor of the Territory deemed it his duty to issue a proclamation declaring the Navajoes outlaws, and authorizing the people to defend their persons and property against their attacks.

Attention is again called to the importance of something being done to put a stop to the raiding into Texas by Kickapoo and other Indians residing in the republic of Mexico, not far from the Rio Grande, as serious difficulties may arise with that nation, should the citizens of Texas, suffering beyond further endurance at the hands of these marauders, undertake to redress their grievances by invading the territory of that republic in pursuit of the offenders. Although the Kickapoos may be regarded as having forfeited their claim to the protection of the United States, and their rights to the home they abandoned in the Indian country, yet, in view of their desire to return, as well as for the welfare of the people on the border of Texas, it is thought that steps should be taken as early as practicable to have them brought back and placed somewhere in the Indian territory. For this purpose Congress was asked last year to legislate and provide the necessary means.

By the treaties of 1866 with the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, it is agreed on their part, if Congress shall so provide, that there shall be organized a general council in the Indian territory, to be composed of delegates from the various tribes, and convened annually, with power to legislate upon all subjects pertaining to the intercourse and relations of the Indians resident in the Indian territory, and

in regard to the matter of the arrest and extradition of criminals escaping from one tribe to another; the administration of justice between members of the tribe and persons other than Indians, and members of said tribes or nations; the construction of works of internal improvement, and, the common defense and safety of the tribes. Nothing has been done in that matter, further than to cause to be taken a census, required by the treaties, of the members of each tribe as a basis of representation, because of the want of the necessary means and appropriate legislation by Congress. There is an earnest desire expressed by these Indians for an early organization of such a council, and that the time of the sessions be extended from thirty to sixty days. I recommend that the subject be brought before Congress as one of great importance, and requiring prompt action by that body. The accomplishment of this much-desired object will give the Indians a feeling of security in the permanent possession of their homes, and tend greatly to advance them in all the respects that constitute the character of an enlightened and civilized people. The next progressive step would be a territorial form of government, followed by their admission into the Union as a State.

Attention is invited to the condition of the freedmen among the Choctaws and some of the other tribes in the Indian territory, whose status as slaves became changed by the results of the late war, and who now appeal to the government for kind treatment and protection. Denied the rights and privileges of the members of the tribes with whom they reside, oppressed and persecuted, this people have claims which should not in justice be longer disregarded. They prefer to remain with those among whom they were raised, but fear losing the protection of the laws of the United States. With the Seminoles they seem to find the most favor, as that tribe has accorded to them unconditional citizenship. The Choctaws and Chickasaws, at first opposed to the measure, appear to have relented somewhat, and now wait to see what the government will do. Arrangements, it is suggested, ought to be made for their colonization in some suitable place, or else a supplemental treaty concluded for establishing them in these nations with a pro rata distribution of their funds and lands.

The settlers to whom lands were awarded under the 17th article of the Cherokee treaty of July 19, 1869, having been recently notified to make payment of the appraised value of the lands awarded, remittances are now rapidly coming in. These lands are known as the "Cherokee Neutral Lands" in Kansas, embracing an area of 799,614.72 acres, the white settlers being in possession of 153,343.10 acres under the article referred to, and the Indian settlers 6,071.93 acres awarded to them under the provision of the 17th article of the treaty. The remaining 640,199.69 acres as stipulated in the treaty were sold by Mr. Browning, Secretary of the Interior, to James F. Joy, of Detroit, Michigan, at \$1 per acre. A portion has been paid for by this purchase, and for which patents have issued.

With regard to the tribes who have long been on reservations, the reports of the superintendents and agents show that for most of them the prospect is brighter for future advancement and prosperity than it has been for several years past. Recovering from the ravages of war and the blighting effects of rebellion, and accepting their situation, those who suffered most are now making commendable progress in industry, education, and a practical knowledge of the pursuits of civilized life. I proceed now to a more particular but brief notice of the several superintendencies and agencies under the jurisdiction of this bureau, commencing with those on the Pacific coast.