

1884-110

KICKAPOO INDIAN LANDS IN KANSAS.

MARCH 11, 1884.—Referred to the House Calendar and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 3201.]

The Committee on Indian Affairs, having had under consideration House bill 3201, submit the following report:

This bill provides for the sale of the reservation of the Kickapoo Indians lying in the State of Kansas, and the following letter from the honorable Commissioner of Indian Affairs of date February 15, 1884, to whom was referred the bill for consideration and suggestions, explains in detail the provisions of the bill, and gives a brief description of the land, and we make his letter a part of our report.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., February 15, 1884.

SIR: I have the honor to acknowledge the receipt, by Department reference for report, dated February 5, 1884, of a communication from R. P. Toole, clerk of the House Committee on Indian Affairs, in which he incloses copy of House bill 3201, "To provide for the sale of the Kickapoo diminished reservation in Kansas," "for your consideration and report."

The first section of the bill authorizes the Secretary of the Interior, with the consent of the Kickapoo tribe of Indians, expressed in open council, to cause to be surveyed, if necessary and sold, the reservation of the Kickapoo Indians in the State of Kansas, the lands to be appraised in eighty-acre tracts by three commissioners, one of whom shall be selected by the Kickapoo tribe, and the other two appointed by the Secretary of the Interior.

The second section authorizes the Secretary of the Interior, after the survey and appraisement of the lands, to offer the same through the proper land office, at public sale to the highest bidder.

Where improvements have been made by any Indian or for the United States upon such lands the improvements are to be separately appraised.

It provides that no portion of the land shall be sold for less than the appraised value thereof, nor for less than \$8 per acre, and that each purchaser shall be entitled to purchase 160 acres, and no more, except in case of fractional excess in a legal subdivision; that such purchaser shall pay one-fourth of the purchase price at the time of purchase, one-fourth in one year, and the remainder in five years from the date of purchase, with interest annually on the deferred payments at the rate of 5 per cent, per annum; that when there are improvements upon the lands purchased, which shall have been separately appraised, the purchasers shall pay the appraised value at the time of purchase in addition to the amounts required to be paid for the land; that no patent shall issue until full payment shall have been made; and that on the failure of any purchaser to make payment as required, he shall forfeit the land purchased and all sums paid thereon, and the land so forfeited shall be subject to entry at the appraised value, or shall be again offered at public sale as the Secretary of the Interior may determine.

The third section provides that the proceeds of the sale of any improvements belonging to any individual Indian shall be paid to the Commissioner of Indian Affairs in trust, to be expended for the benefit of the Indian to whom they belonged; that the proceeds of the sale of any improvements belonging to the United States shall be deposited in the Treasury of the United States; and that the proceeds of the lands, after deducting the cost of the survey, appraisal, and sale, and the expense of removing the Indians to the Indian Territory, shall be placed to the credit of the Kickapoo Indians, in the Treasury of the United States, and shall bear interest at the rate of 5 per cent. per annum, which income shall be annually expended for the benefit of the Indians, under the direction of the Secretary of the Interior.

The fourth section authorizes the President of the United States to cause a patent to be issued to the Kickapoo tribe of Indians for the lands set apart for the Kickapoo "and such other Indians as the Secretary of the Interior might see fit to locate thereon," by Executive order of August 15, 1883.

The fifth section provides the form of patent to be issued under section four.

The sixth section provides for allotments to the Indians residing upon the Kickapoo Reservation in the Indian Territory, whenever they shall desire the same, of 160 acres to each head of a family, and 80 acres to each single person over the age of twenty-one years.

The seventh section provides for the issuance of patents to such allottees in the manner and form provided for the Omahas (act of August 7, 1882, 22 Stat., 341).

The eighth section authorizes the Secretary of the Interior, with the consent of the Indians, expressed in open council, to cause the removal of that portion of the Kickapoo tribe residing on the reservation in Kansas to the Kickapoo Reservation in the Indian Territory, and appropriates the sum of \$30,000, or so much thereof as may be necessary for the payment of the expenses of the surveys, appraisements, and sale, and removal, and of such sum as may be rendered necessary for the comfort of those removed and of those already in the Indian Territory; the amounts so expended to be reimbursed to the United States out of the proceeds of the sales of lands.

The Kickapoo Reservation in Kansas contains 20,273 acres, and is owned in common, under the fourth article of the treaty of June 28, 1862 (13 Stat., 624). It is located in Brown County, Kansas, 5 miles north of the Union Pacific Railroad and 40 miles from the city of Atchison. The land is fertile and valuable. There are at present 234 Indians residing upon the reservation; they are represented as living in comfortable houses and having several fine bearing apple and peach orchards.

This office has no information relative to their wishes with regard to the sale of their lands, except that in a letter from one F. G. Adams, of Topeka, Kans., purporting to give the views of Paschal Pensineau, a prominent Kickapoo, it is stated that a considerable portion of the tribe remaining on the reservation in Kansas, desire to have lands allotted to each member of the tribe, and the remainder sold for the common benefit.

A portion of the Kickapoo tribe, including a number of Mexican Kickapoos, are residing in the Indian Territory upon a reservation set apart for them by the Executive order of August 15, 1883.

In office report of July 30, 1883, transmitting the draft of said order, it was stated that it had been recently intimated that the Kansas Kickapoos might shortly desire to sell their reservation and remove to the Indian Territory, in which event they could be located upon the proposed reservation, which, it is thought, would be ample for the requirements of these Indians in addition to the Mexican Kickapoos.

As the bill provides for obtaining the consent of the Indians before any steps are taken towards the sale, there appears to be no objection to it, on account of the want of knowledge of their desires in the matter.

The bill appears to be carefully drawn, and provides for a tribal patent for the lands in the Indian Territory, and for the allotment and patenting of the said lands when desired, as recommended in office report of December 6, 1883. (See Senate Ex. Doc. No. 18, Forty-eighth Congress, first session.)

In view of the fact, however, that some of these Indians have valuable farms and may desire to remain, even if the tribe determines to remove, I have the honor to recommend that a new section be incorporated, providing that any members of the tribe electing to remain, and having valuable improvements, may receive patents for 160 acres each, the patents to be the same as those authorized to be issued to the Omahas, by the act already referred to.

The fourth section refers to the lands in the Indian Territory as set apart for the use and occupation of the "Kickapoo and such other Indians as the Secretary of the Interior might see fit to locate thereon." This is an error. These lands were set apart for the "use and occupation of the Kickapoo Indians" only.

I think the bill should be amended by striking out the words "and such other," and the words "as the Secretary of the Interior might see fit to locate thereon," in lines 12 and 13, in section 4, and the words "and such other Indians as the Secretary of the Interior may see fit to locate with them," in lines 6 and 7, in section 5.

I have prepared, and transmit herewith, a copy of the bill with the proposed amendments incorporated, in which form it meets my approval.

I inclose copy of this report, and return Mr. Toole's letter and inclosure.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The SECRETARY OF THE INTERIOR.

As stated by the honorable Commissioner in his letter, these lands are situated in Brown County, Kansas, one of the most productive and prosperous counties of Kansas, and are only forty miles from the city of Atchison.

They are surrounded by finely cultivated farms, and by churches and schools, and are owned in common by about 234 Kickapoo Indians, who speak the English language, wear the American dress, and, while they are not much given to industry, are well qualified to look after their pecuniary interests and to determine what is best for them in view of all the surrounding circumstances. But, as suggested by the Commissioner, some of the lands are improved, and some of the Indians have quite comfortable homes upon them, and the bill as recommended by your committee is intended to fully protect them in their improvements, and to give them their lands in severalty, if they desire, that the industrious and frugal among them may be protected from the indolent and shiftless. In their present condition the Indians realize but little from the lands, and they cannot be alienated or taxed; and to the white settlers and business men of the county who pay the taxes and expenses of their local government, and who see these lands grow in value from year to year by their industry and energy, and without labor or effort from their occupants, the reservation appears a blotch upon the fair face of their county, which they think should be removed, as contemplated by the provisions of this bill.

Your committee are advised that many of these Indians now spend the most of their time on the Kickapoo Reservation in the Indian Territory—mentioned by the honorable Commissioner in his letter—and are in favor of selling their lands in Kansas; but, if in this your committee are mistaken, no harm is accomplished by this legislation, as the bill provides that the consent of the tribe shall be obtained before any disposition shall be made of their lands.

Your committee are further advised that at this time there is good demand for these lands, and that if this bill should pass these lands would bring from \$10 to \$20 an acre, and realize a fund which, at interest at 4 per cent., would aid the Indians very materially in making homes for themselves among their kindred in the Territory, and in getting stock, and in advancing in the substantial evidences of civilization.

Or, under the provisions of the bill, as amended by your committee, any member of the tribe may elect to take his land in severalty, and may improve and cultivate it, and make a comfortable home for himself, where churches and schools abound, and where all the conveniences and comforts of civilization are at hand, with the comforting and encouraging conviction that it is his individually, and that others cannot compel him to divide with them the accumulations of his industry and toil.

The bill seems to be very carefully drawn, and very equitable and fair in its provisions, and with the amendments suggested we recommend the passage of the bill; and the amendments recommended by your committee embody substantially those recommended by the honorable Commissioner of Indian Affairs, and meet his approval.

AMENDMENTS.

First. After the word "of" and preceding the word "the," in the third line of the first section, insert "a majority of the chiefs, headmen, and male adults."

Second. In the third line of the second section, after the word "same," insert "as hereinafter provided."

Third. In the twenty-ninth line of the second section, after the word "required," insert "within ninety days after maturity."

Fourth. At the end of section 2 insert the following as section 3:

SEC. 3. That if any member of said Kickapoo tribe of Indians residing on said reservation at the passage of this act shall elect to take their proportionable part of said reservation in kind in severalty in lieu of the proceeds of the sale of said reservation, the same shall be reserved from sale under this act. And the Secretary of the Interior shall cause the amount of said reservation, to which said member of the said Kickapoo tribe of Indians electing to take in kind is entitled, to be surveyed and allotted to each in severalty, and cause certificates of allotment to be issued to each of said allottees; and the lands allotted under the provisions of this act shall be and remain inalienable by said allottee, his heirs, or legal representatives for the period of twenty-five years, and for such further time as the President of the United States shall deem proper, during which period the lands of said allottees under this act shall not be subject to any lien by judgment or decree of any court or by any other judicial proceedings whatever; nor shall said lands be subject to taxation for any purpose whatever. That during the said period of twenty-five years the fee-title of the lands allotted under this act shall remain in the United States in trust for each allottee, his heirs, or legal representatives; that after the expiration of said period of twenty-five years, if considered advisable by the President of the United States, patents shall issue to each of said allottees, their heirs, or legal representatives for the lands allotted to them by this act, conveying the fee-title absolute, free from all incumbrances, restrictions, and limitations herein provided to each of said allottees: *Provided*, The provisions of this act shall in no wise interfere or abrogate the right of individual Indians or allottees from becoming citizens of the United States as provided in the treaty of 1862 with said Indians.

Fifth. In line 7 of section 3 of original bill insert after the word "States" "until otherwise provided by law."

Sixth. In line 9 of section 3, original bill, strike out the word "the," after the word "removing," and insert the word "such."

Seventh. In line 10 of the same section, after the word "Territory," insert "who elect to remove thereto."

Eighth. In line 12 of the same section strike out the word "five" and insert in lieu thereof the word "four."

Ninth. In line 2 of section 4 of the original section strike out the word "patent" and insert in lieu thereof the word "certificate," and make the same amendment in line 1 of the next succeeding section.

Tenth. In the fifth section of the original bill strike out all after the word "tribe," in the sixth line, and insert in lieu thereof "and until some other disposition of such lands is authorized by Congress."

Eleventh. In line 3 and 4 of section 7 of the original bill strike out the word "patents" and insert in lieu thereof the word "certificate."

Twelfth. In same section strike out every thing after the word "void," in the sixteenth line.

Thirteenth. Change the numbers of sections 3, 4, 5, 6, 7, and 8 of the original bill so as to conform to the amendments recommended by your committee.

Your committee submit herewith the letter of the honorable Secretary of the Interior transmitting to the committee the letter of the honorable Commissioner of February 15, 1884, and make it a part of this report.

DEPARTMENT OF THE INTERIOR,
Washington, February 18, 1884.

SIR: I have the honor to return herewith H. R. 3201, entitled "A bill to provide for the sale of the Kickapoo diminished reservation in Kansas," which was received by this Department with letter from the committee requesting its consideration and report thereon under date of 5th instant.

In reply, attention is respectfully invited to the inclosed copy of letter of 15th instant from the Commissioner of Indian Affairs, to whom the subject was referred, who suggests certain amendments to said bill, which amendments are attached to a copy of the bill herewith returned.

I see no objection to the passage of the bill as amended by the Commissioner.

Very respectfully,

H. M. TELLER,
Secretary.

The CHAIRMAN of the Committee on Indian Affairs, House of Representatives.

○