

SIoux LANDS OR RESERVATION IN MINNESOTA TERRITORY.

[To accompany bill H. R. No. 338.]

APRIL 28, 1854.

Mr. DANIEL B. WRIGHT, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred the memorial of the Sioux half-breeds, having considered the same, beg leave to report:

That under the treaty of Prairie du Chien, of date July 15, 1830, and the ninth article of said treaty, it was stipulated and agreed between the United States and the Sioux bands of Indians, that said Indians might have permission to bestow upon the half-breeds of their nation the tract of land within the following limits, to wit: "Beginning at a place called the Barn, below and near the village of the Red Wing chief, and running back fifteen miles; thence in a parallel line with Lake Pepin and the Mississippi about thirty-two miles, to a point opposite O'Bœuf river; thence fifteen miles to the grand encampment opposite the river aforesaid"—the United States agreeing to suffer said half-breeds to occupy said tract of country; they holding by the same title and in the same manner that other Indian titles are held.

And in the *tenth* article of said treaty it was further agreed that the President of the United States might thereafter assign to any of the said half-breeds, to be held by him or them in *fee simple*, any portion of said tract not exceeding a section of six hundred and forty acres to each individual.

Said tract of country thus assigned to said half-breeds lies in the southern part of the Territory of Minnesota, on the western side, and at the head of navigation of the Mississippi river; it contains, by estimation, three hundred thousand acres, and includes within its limits some of the most fertile lands in the Territory of Minnesota.

The Indian titles to the whole of the country surrounding said reservation are now extinguished, and the bands to which said surrounding country belonged have removed westward, and many of the less cultivated of said half-breeds are desirous of disposing of their interest in said reserve and following their Indian relatives. Some have already gone. Justice, humanity, and sound policy alike second their desire; for all experience demonstrates the utter incompatibility of the uncivilized Indian with civilized life. Many of them, however, are represented as being educated, and having judgment and experience suffi-

cient to take care of their own interest. A number of them are said to be men of much intelligence, possessing property, and having become citizens of Minnesota and of the adjoining States. Some of them have served in the legislature, and filled offices of honor and trust in the Territory, while others are engaged in agriculture, mercantile and other profitable pursuits. With them, at least, the object of the fostering policy of the government has been attained, in fitting them for civilized life; for, in point of intelligence and civilization, many of them would compare favorably with their white brethren.

The term "half-breed," as applied by some to them, is a misnomer, for it was intended to include all those having an admixture of *white* and Indian blood in their veins, in whatsoever degree.

The actual title of those persons to the reservation in question is that of Indians, although many of them have a preponderance of white blood. The title of the Indians must be considered with reference to their mode or habit of life. Their hunting-grounds are as much in their possession as are the cleared fields of the whites, and their undisputed right to exclusive enjoyment beyond dispute. Yet this is a right to possess or hold their lands as joint tenants, or as tenants in common; and no one of such community can dispose of an integral part of their common property, nor is any white citizen authorized to settle upon the same.

The laws and treaties of the United States contemplate the Indian Territory as completely separated from that of the States, and provide that all intercourse with them shall be carried on exclusively by the government of the Union; hence the importance to the inhabitants of the Territory of Minnesota that said reservation should be held in severalty by said half-breeds, with title in fee, or by their assignees, as citizens of the United States; for, under existing circumstances, they are deprived of the right of way for thirty-two miles on the Mississippi river—the natural outlet for their produce and commerce. Having no right to open roads through said reservation, the citizens of Minnesota are precluded the use of those natural advantages to which their position entitles them.

Said half-breeds have repeatedly applied to the government of the United States to have their lands allotted to them in fee, as stipulated in the tenth article of said treaty; but the President has hitherto wholly failed to assign to said half-breeds their lands in fee, upon the ground, as your committee is informed, that there was no stipulation in said treaty as to whether the said half-breeds should incur the expense of such allotment. Said half-breeds, in 1851, offered to take one hundred and fifty thousand dollars (\$150,000) for their said reservation; but not being a tribe or nation in the legal sense of the term, they had no power to treat, and the proposition was rejected by the Senate of the United States; nor can their Sioux relatives treat for their half-breeds in relation to said reservation, since they have parted with all the title they held to the same.

Said half-breeds, holding by the uncertain and precarious tenure of Indian title, have no inducement to improve their homes in said reservation; and thus the fairest portion of Minnesota bids fair to remain a desert, unless the stipulations of the treaty can be carried into effect.

Justice and sound policy alike require that this should be done. They look to our government for protection, rely upon its kindness, invoke its humanity, and appeal to its power for relief.

Your committee having carefully considered the premises, and believing that the relief sought ought to be granted, report herewith a bill, which they think will attain the end desired, and recommend its passage.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, March 4, 1854.

SIR: The 9th article of the treaty of the 15th of July, 1830, with the Sacs and Foxes, and certain tribes of the Sioux, &c., and which treaty was ratified on the 24th of February, 1831, is in the following words:

“ART. 9. The Sioux bands in council having earnestly solicited that they might have permission to bestow upon the half-breeds of their nation the tracts of land within the following limits, to wit: Beginning at a place called the Barn, below and near the village of the Red Wing chief, and running back fifteen miles; thence in a parallel line with Lake Pepin and the Mississippi, about thirty miles, to a point opposite Beef or O’Boeuf river; thence fifteen miles to the Grand Encampment opposite the river aforesaid,—the United States agree to suffer said half-breeds to occupy the said tract of country, they holding by the same title and in the same manner that other Indian titles are held.”

The 10th article, after designating lands for the half-breeds of other tribes, parties to the treaty, contains the following proviso in respect to the various grants made:

“The President of the United States may hereafter assign to any of the said half-breeds, to be held by him or them in fee simple, any portion of said tract not exceeding a section of six hundred and forty acres to each individual. And this provision shall extend to the cession made by the Sioux in the preceding article.”

The object of setting apart the individual reserves above referred to for the half-breed Sioux, has, from the year 1836 until the present time, given rise to an extended correspondence between the Indian department and the agents, attorneys, and friends, of the parties interested; but so far, to all appearance, the questions connected therewith are now as far from being settled as they were when first brought to the notice of the Indian Office.

In a letter dated the 25th of July, 1836, Lawrence Taliaferro, esq., the then Indian agent at St. Peters, informed this office that the names of sixty-four half-breeds had been deposited with him, who stood prepared either to cede to the United States their reserve on Lake Pepin, or to receive a confirmation of title to the same, and a fair division among those entitled, under the provisions of the treaty of 1830. “This precautionary measure,” he was requested to say, “had been adopted by the more intelligent half-breeds, in consequence of learning that an attempt is about being made by one portion (a minority) of the

claimants to defraud the majority out of their just proportion of the lands under said treaty, under the influence of certain white speculators."

On the 3d of March, 1837, an act of Congress was passed appropriating \$1,000 to carry into effect the provisions of the 9th and 10th articles of the treaty of 1830; but the money does not appear to have been drawn from the treasury, for the reason stated by Commissioner Crawford in his report of the 7th of January, 1840, to Secretary Poinsett, that it could not be applied, *without legislative authority*, beyond running the *exterior lines* of the tract, which, it seemed to him, "could not have been attended with any advantage, as the body of the land is designated with precision in the treaty."

There is also on file a memorial dated at Fort Snelling, St. Peters, August 25, 1837, signed by Sioux half-breeds and their friends, asking the President to have the half-breed reservation at Lake Pepin "surveyed and divided among the proper claimants as soon as practicable," so that the intention of the treaty may be carried into effect, and that Governor Dodge, then superintendent of Indian affairs, and Colonel Stambaugh of Fort Snelling, or either of them, be appointed "to have the said lands surveyed and divided equitably between them as the treaty prescribes, believing that a division so made will give general satisfaction to all interested." They also appointed their friend, Col. S. C. Stambaugh, their representative at the city of Washington. An addition to the memorial made in this city, and dated the 27th of September, 1837, signed by, or on behalf of, several half-breeds, asks that Colonel Stambaugh might be appointed to divide their reservation.

No action appears to have been had upon this memorial or its supplement.

In October, 1838, L. T. Pease and Wm. L. D. Ewing, who had been appointed commissioners to execute certain provisions of the Sioux treaty of 1837, transmitted from Fort Snelling, with their favorable recommendation, a memorial to Secretary Poinsett, signed by half and quarter-bloods of the Sioux nation, praying for the appointment of Alexis Bailly and Samuel C. Stambaugh, to make a division of the reservation among those entitled, and asking that half and quarter-bloods may participate equally in the benefit of the grant.

On the 7th of January, 1839, Commissioner Crawford reported adversely to the memorial to Secretary Poinsett; and the reasons for his conclusions will be found embodied in the following extracts therefrom:

"The first part of the request, (for a division of the reserve among the half and *quarter-breeds*,) it appears to me, cannot be granted. The treaty limits the persons entitled to any interest in this reservation to *half-breeds*. There is no authority for making a different disposition of the land. * * * * * The treaty, it is apparent, contemplated equality of distribution among families; for it authorized the President to assign to any of the half-breeds a section of land, or six hundred and forty acres, and no more. This authority, by the way, does not seem to have looked to a general distribution even among the half-breeds, as the memorialists seem to suppose; for its language is, that the President may hereafter assign to *any of the said half-breeds*, to be

held by him or them in fee simple, &c.: thus leaving it discretionary with him to grant to those to whom it would be beneficial, or for whose advantage, for any good reason, he thought fit to exercise the power.

“I also think the recommendation to Congress, which is asked for, to divide the remainder of the land upon principles of equity among the memorialists, (half and quarter-breeds,) ought to be withheld for the reasons given, against the first branch of the prayer, they being as strong as against the second.

“There is another, to my mind, great objection to all parts of the memorial, and the wishes expressed. The ninth article grants the reservation to the occupancy only of the half-breeds, who are to hold it by the same title, and in the same manner that other Indian lands are held. The fee simple is in the United States, and the whole will revert to them when the said half-breeds cease to occupy the property, unless the President, under the tenth article, should grant to some, or all of them, a section of land respectively in fee simple. So far he has authority to go. When he shall think fit to do so, depends upon his own view of the matter, and whether he shall do it at all; and the treaty is fulfilled whether his judgment leads him to the one conclusion or the other. But, having patented one section of land to each half-breed, all the grants in severalty contemplated by the treaty are made, and it is executed to its full and even contingent extent. The legislative authority can give the residue of the land to the Indians in fee, but I see no public good, or probable advantage to them, that would result from so doing.”

Upon this report, Secretary Poinsett endorsed as follows: “I concur in the views taken by the Commissioner in this communication. J. R. Poinsett.”

In a letter written by L. T. Pease, one of the late commissioners, and dated at Hartford, Conn., on the 22d of January, 1839, he assigns at length, at the request of Messrs. Stambaugh and Bailly, the various reasons which induced him to join his associate, Mr. Ewing, in recommending a division of the half-breed tract among those entitled. He urges with great earnestness the policy, propriety, and justice of the measure.

On the 25th of January, 1839, the Hon. James Buchanan addressed a letter to President Van Buren, enclosing one from the Hon. James D. Doty, (also addressed to the President.) The object of these letters seemed to be to controvert the idea that the grants of fee-simple estates, contemplated by the treaty of 1830, to Sioux half-breeds, should be limited to those of half white and half Indian blood only. Mr. Buchanan expressed his astonishment at reading the opinion of Commissioner Crawford, and said he had always understood the term “half-breeds” meant neither more nor less than those of mixed blood, “without regarding the exact proportions.” Such, also, he said, was the opinion of several members of the Senate practically acquainted with Indian affairs.

Mr. Doty said it was important to the interests of the frontier “that the half-breeds should be settled on the tract according to the intent of the treaty, and asked the appointment of some person to examine the tract, and assign to each of the half-breeds a section of land. He also

depreciated the attempt to circumscribe the meaning of the expression "half-breeds," as suggested by the Commissioner, and appealed "to the writers upon that country, and to the testimony of the oldest and most intelligent of its inhabitants, to prove that the words have been used for more than half a century to designate that class of population which are of *Indian extraction*."

On the 22d of February, 1839, Messrs. Stambaugh and Bailly, as agents of the half-breeds, addressed a long letter to Secretary Poinsett for the purpose of controverting the meaning attached by Commissioner Crawford to the word half-breeds, and to urge their own appointment, to carry out the provisions of the ninth and tenth articles of the treaty, in accordance with the unanimous recommendation of those interested. They say, in reference to the number entitled: "We believe there are about one hundred and fifty who were born in 1830. The quantity of land to be divided may be estimated at four hundred and eighty sections. Thus, there would be about three hundred and thirty sections to be held under the present title."

Secretary Poinsett, on the 28th of the same month, replied that the decision to which they referred was not founded on the technical meaning of the word "half-breeds," which he believed "*included all those of Indian descent*," but "upon the *inexpediency of making any division*, and vesting the fee of those lands in the claimants. At the same time," "he could not recommend such a measure to the President without some reservations which will prevent the land from falling into the hands of other than those of the claimants, and this cannot be done *without legislative interposition*." The Secretary added that it was the intention of the department to postpone all action upon the subject until the next session of Congress; but if Messrs. Stambaugh and Bell desired it, the papers would then be submitted to that body.

On the 1st of March, Colonel Stambaugh replied, at length, to the letter of Secretary Poinsett, and pronounced a protest against a division of the reserve, purporting to be signed by a large number of the "half-breeds," which had been filed at the Indian Office in the fall of 1838, "a base fabrication," and entered into a minute detail of facts, to prove the truth of the assertion. Accompanying his communication are letters from Messrs. B. F. Baker, Franklin Steele, and Alexis Bailly, approving the same, as well as a power of attorney, dated the 2d of October, 1838, from many of the half-breeds of the Madawan-kanton band of Sioux Indians, (some of whom had signed the "protest,") authorizing Colonel Stambaugh and G. W. L. Ewing to act as their agents in securing a division of the land under the provisions of the treaty, in accordance with the memorial previously presented. Colonel Stambaugh intimates, in pretty plain terms, that Major Taliaferro, the Indian agent, who, he said had a personal interest in having the grant limited to half-breeds only, was the author of the protest.

To this communication Secretary Poinsett replied, on the 20th of March, stating that "the objections raised by the department to the project of a division was in no respect personal to Messrs. Stambaugh and Bailly, who he had no doubt were fairly selected by the parties to represent their interests and effect the division, but arose from its

obligation to protect these people from the effect of their own improvidence, which can only be done by legislative provision. The department," he added, "could not authorize the preliminary measure" of dividing the tract, but would oppose no objection—it being expressly understood that Messrs. Stambaugh and Bailly would not be entitled to any remuneration from the government for their labor, "unless especially provided for by Congress hereafter."

On the 7th of March, 1840, Commissioner Crawford submitted to the Secretary of War a report on the letter of the Hon. John Bell, chairman of the Committee on Indian Affairs of the House of Representatives, addressed to Secretary Poinsett on the 27th of February, explanatory of the causes which delayed or prevented the execution of that provision of the treaty "of 1830 respecting fee simple grants to half-breeds." He contended that, in assigning the reserve for the occupancy of the half-breeds in common, the treaty, as he construed it, was fulfilled—"all the rest belonged to executive discretion." The President could grant a fee simple of a section of land to one or more individuals of the tribe, "that he might think meritorious and worthy, and likely to improve the favor." &c. Of the propriety of granting the prayers of the memorialists for a division of the whole tract, Congress, he contended, are to judge. The following extracts from the report will show the reasons which led Commissioner Crawford to these conclusions:

"The land set apart by the treaty for the half-breeds never was granted to the United States. It was a donation by the Indians to their mixed bloods, with the consent of the United States, in whom the fee simple was vested. The grant, therefore, was limited to the Indian right—that is, to hold by occupancy: to this the United States consented, and so far only is there any contract or right, upon which they could insist, vested in the half-breeds by the 9th article. The claimants go further, and, in all their applications and communications, speak of a division into sections for their use, and in the memorial of last year, as well as in that now presented to Congress, of an equitable apportionment among them of the surplus to be granted in fee simple, as the treaty prescribes."

This is an error. The 10th article contemplates neither in letter nor spirit a general division into sections among them, much less a ratable assignment of what would be left, after such allotments; nor is there any executive power to do either, if either had been thought politic or for Indian interest.

The tenth article authorized the President to grant; that is, he "may hereafter assign to any of said half-breeds, to be held by him or them in fee simple, any portion of said tract not exceeding a section of six hundred and forty acres to each individual." The treaty was executed by the assignment of the Indian title, and the occupation by the half-breeds of the land in common; all the rest belonged to executive discretion, which was, as I construe the treaty, to be exercised, if at all, in granting the fee simple, or a section of land, to one or more individuals, that he might think meritorious, and worthy of, and likely to improve the favor, but not looking, in any event, to a division, and, if

possible, still less to an apportionment of the land that, it is said, will be left, if a section should be given to each mixed-blood.

"It may be proper to grant the prayer of the memorial. Of this, Congress are to judge; for without the authority and sanction of the law, the power, it seems to me, is wanting. Should the legislature so declare its pleasure, it will be the duty of the department to see it executed."

Secretary Poinsett, in transmitting the above mentioned report to the Hon. John Bell, on the 13th of March, 1840, says: "In this report the department fully concurs, and is of the opinion that, without some restriction, these lands would, if divided as prayed for, in a short time fall into the hands of speculators." Secretary Poinsett at the same time transmitted copies of all the papers in reference to the matter which were of file in the department.

On the same day, Colonel Stambaugh addressed a letter to Secretary Poinsett, enclosing a memorial to the President from certain Sioux half-breeds, and also a letter from Alexis Bailly, on the subject of the reserve.

On the 12th of March, 1839, Secretary Poinsett caused a "*public notice*" to be published in certain newspapers in Missouri and Iowa, to the effect that no sale of the undivided interest held in said half-breed reserve, "will be recognised or regarded as valid by the President of the United States."

A memorial of about sixty relatives of the Sioux Indians, dated at St. Peters on the 24th of June, 1839, was addressed to the President, urging the policy and expediency of a division, and announcing the appointment of Messrs. Stambaugh and Bailly, and N. Boilvin, to represent their interests. They recommend the passage of a law by Congress authorizing a division of the tract, after supplying *individual* reservations upon the same principles.

On the 17th December, 1839, Governor Dodge, of Wisconsin, enclosed to this office a copy of a preamble and resolution of the legislature of the Territory of Wisconsin, instructing the delegate from the Territory "to use his influence to procure the passage of a law directing the early survey and apportionment in fee simple among the claimants," in order to prevent the suffering and continual and heavy loss arising from the uncertain tenure by which they now hold their reserve. The receipt of that resolution was acknowledged on the 23d of January, 1840.

On the 22d of February, 1840, the Hon. Wm. W. Chapman, of Iowa, enclosed a memorial of the legislative assembly of that Territory, approved the 31st December, 1839, urging the policy of a division of the Lake Pepin reserve, as a measure that would "tend greatly to promote the prosperity and security of that portion of the Territory," &c. Its receipt was acknowledged on the 13th of March, with a copy of the report of the 7th of that month, showing the views of the department.

On the 30th of March, 1840, Commissioner Crawford, in compliance with the verbal request of the Hon. John Bell, chairman of the Committee on Indian Affairs of the House of Representatives, submitted an estimate for the purchase of the half-breed tract. The salary of the commissioner and secretary, and the incidental expenses, he estimates at \$2,500, and the 384,000 acres of land contained in the reservation,

at one dollar per acre. He says the tract, being exactly thirty-two by fifteen miles, would, but for the meanders of the Mississippi river, contain only 307,000; but these meanders, he thinks, will give upwards of 600 sections, or 384,000 acres. He supposes that two hundred may comprise the whole number of half and quarter-bloods, and thinks, as they are in some measure individual owners, that "each of them should sign the compact for the purchase of the reserve."

On the 9th of July, 1840, Colonel Stambaugh addressed a letter to the chairman of the Committee on Indian Affairs of the House of Representatives, calling attention to the memorial of the half-breeds of August, 1837, proposing the appointment of commissioners to divide the tract among the claimants of mixed blood, who, he supposed, did not amount to two hundred persons; and proposing, on their behalf, to relinquish the balance of the reserve, "say 256,000 acres, for the sum of \$200,000." To show the impolicy of not assenting to his proposition, Colonel Stambaugh referred to the case of the Sacs and Foxes at the Des Moines Rapids, in which those Indians "sold their common interests for a mere trifle, and afterwards finding that the purchasers might procure a change of tenure, they sold the same interest to others, which gave rise to endless litigation."

Governor Doty, in a letter addressed to Secretary Bell, and dated on the 30th of June, 1841, urged the policy of purchasing the half-breed tract, and states that the reservees are anxious to sell their interest to the United States. He proposes, if so instructed, to treat with them.

In a letter dated in this city, in July, 1841, the Hon. John W. Parker, of the legislature of Iowa, urges upon the Secretary of War the policy of a division of the Lake Pepin reserve in severalty; and, by the way of illustrating the policy of his advice, refers to the case of the Sacs and Foxes at the Des Moines Rapids, which, in consequence of the Indians having sold their interests in the common reserve, "has involved that whole country in litigation, and the Territory in great expense."

On the 30th of July, 1841, Colonel Stambaugh again called the attention of Secretary Bell to the subject, and referred him to a member of the Iowa legislature, and the late delegate from that Territory, (both then in this city,) for information as to the policy and expediency of the measure of dividing the half-breed reserve.

In his annual report of the 10th of September, 1845, speaking of half-breed reservations generally, Superintendent Harvey, of St. Louis, expresses the opinion that the interests of the Indians, in all cases, would be advanced by delivering to them patents for their reservations, with authority to dispose of them by sale, "as they would, nine times in ten, make a better sale with a patent than otherwise."

Commissioner Medill, in replying to a letter of the superintendent at St. Louis, said, in September, 1847, that he agreed with his predecessor as to the impolicy of dividing the half-breed tract, and allotting particular tracts to the claimants respectively in severalty, to be held in fee simple; but that the suggestion of General Milburn, (whose letter Superintendent Harvey had enclosed,) that "measures be adopted to extinguish the Indian title to the land, would receive due consideration."

In February, 1849, the Hon. H. Sibley enclosed a letter from Dr. D.

Dale Owen, geologist, to a Mr. Brisbois, in which Dr. Owen says the half-breed tract "is a mineral region," and that "lead will be found there, and probably copper also." Mr. Sibley therefore hoped, in view of its value as such, that the department would favorably consider the proposition which he had made, as attorney for a large majority of the claimants, to sell the tract.

Commissioner Medill gave an unfavorable answer, and informed Mr. Sibley that various propositions for the sale of partition of this reserve had been submitted to the department, "and that it was determined, in every instance, that the matter should first, in some way, receive the sanction of Congress." The power of attorney, which was considered as defective, was returned with this answer on the 16th of February, 1849.

The eighth article of the treaty of the 5th of August, 1851, between Commissioners Lee and Ramsay and the Dakota Indians, is in the following words:

"ARTICLE 8. The half-breeds of the Sioux nation having failed and refused to avail themselves of the provisions for their benefit in the ninth and tenth articles of the treaty concluded at Prairie du Chien on the 15th of July, 1830, it is hereby agreed, at their request, that in lieu of the tract of land set apart for the occupancy of said half-breeds, there shall be paid to them by the United States, under the direction of the President, the sum of one hundred and fifty thousand dollars, (\$150,000:) *Provided*, That the non-ratification of this article shall in no manner affect the other provisions of the treaty."

This article was, however, stricken out by the Senate, in executive session, on the 22d of June, 1852, which, as before stated, leaves the matter just as it stood in 1836, when a proposition for a division or purchase of the tract was first made.

Recently there has been received from Governor Gorman, of Minnesota, a petition from ten of the half-breeds residing upon the Lake Pepin reserve, dated at Wabashaw, in Wabashaw county, in said Territory, in June last, praying that the President may cause to be conveyed to each of the petitioners, in fee simple, under the superintendence of Governor Gorman, a section of land, in pursuance of the power vested in him by the 10th article of the treaty of 1830.

The petitioners say they have resided twelve years and upwards upon their respective tracts; that emigrants are daily making claims and settling permanently upon the reserve—"a circumstance," they say, "pregnant with much evil, and calculated to embarrass its final adjustment," &c.; and they ask that their respective buildings and improvements may be included in and form a part of their reserves of 640 acres each. The petition is favorably endorsed by Governor Gorman, under date of the 15th of July last, in the following words:

"From the intelligent character of these petitioners, and from the fact that our Territorial law has given them the right of citizenship, voting, &c., I especially recommend that their prayer be granted."

A petition of the Madawakanton half-breed Sioux, dated at Wabashaw the 14th of October last, and addressed to Governor Gorman, (lately left in this office,) represents that irresponsible individuals among themselves have made sales of their right of common occupancy to citizens of the United States, the result of which, they say, "will lead,

among the present occupants, to endless litigation;" that the present white settlers on their tract "have made permanent establishments, and bid defiance to your petitioners, and have absorbed some of the most important points;" that they are destroying their best timber, and even laying out a portion of their lands "into town plats, and offering lots for sale, to the prejudice and against the interest of petitioners, and contrary to law." They therefore pray for the removal of every person trespassing upon their lands contrary to the intercourse law.

This petition having been referred by Governor Gorman to D. H. Duttin, esq., the United States district attorney for the Territory, for his opinion as to the powers of the governor to remove intruders, that officer, in a written opinion dated the 8th of December last, (which accompanies the petition,) quotes numerous authorities to show that the land in the reservation "can only be taken possession of and held by a patent from the government of the United States, or a continued permission from the Sioux half-breeds to occupy the same," and that the United States had the undoubted right, under the act of June 30, 1834, "to employ the military force of the country to drive off all persons found upon the territory in question contrary to law," &c., &c.

The fact has also been brought to my notice, that a petition, very numerously signed by the half-breed claimants, was drawn up at Red Wood agency, in November last, and addressed to Governor Gorman, urging application to Congress, on their behalf, for the passage of a law authorizing the issue of land scrip in their favor for 640 acres of land each, in satisfaction of their claims to fee simple grants, under the treaty, to portions of the Lake Pepin reserve. The petition has been recently filed.

A more recent petition of some of the half-breeds, which you referred here, on the 21st ultimo, with directions for a report of the facts, asks the President (to whom it is addressed) to appoint a commission to ascertain the persons and the number that may be entitled, to enable him "to determine the quantity of land that can be granted to each." While of the opinion that if the maximum quantity of 640 acres be granted to each, it will not absorb all the reserve, the petitioners say they are willing that the President "should patent upon the conditions that they (the claimants) *should relinquish all right and title to the surplus.*"

The Sioux bands who were parties to the treaty of Prairie du Chien of July 15, 1830, have, by the treaties of July 23 and August 5, 1851, relinquished all their claim to the country in which the half-breed tract is situate; and in the adjustment of the question there is, in my opinion, no interest to be considered but that which the half-breeds obtained by virtue of the ninth article of the treaty of July 15, 1830—that is, a right to "occupy the said tract of country, they holding by the same title and in the same manner that other Indian titles are held. But the President of the United States may hereafter assign to any of the said half-breeds, to be held by him or them in fee simple, any portion of said tract not exceeding a section of 640 acres to each individual."

I am informed that many of the half-breeds are very competent to manage their own affairs, and that they have good improvements on the reserve. It is said that others are altogether incompetent to take

care of property. Some of the thrifty half-breeds, it is said, have gone off of the reserve, and bought land and made improvements; being unwilling to do so on the reserve, because they could not have land assigned to them in severalty.

No good can result to the half-breeds by the continuance of this occupancy in common. Some legislation will, in my opinion, be necessary before a change can well be made, if for no other purpose than to protect the interests of such portion of these people as are incompetent to manage their own affairs.

The laws of the Territory do not operate over the reserve, and the intercourse act is of but little protection to the residents, who are no doubt subject to all the temptations and adverse influences incident to their peculiar location.

In addition to this, the border white settlers in Minnesota must experience great inconvenience from the state of things now existing on Lake Pepin reserve.

I can find nothing in this office from which I am enabled to come to any satisfactory opinion as to the number of half-breeds who would be entitled to land, if the President were to determine to assign it in fee simple.

In 1839, it was the opinion of Messrs. Stambaugh and Bailly that there were about one hundred and fifty persons born in 1830 who would be entitled to the grant in fee, and that the reserve would satisfy their demands for 640 acres, and leave a surplus of 330 sections.

The delegate from the Territory has recently informed me that, in his opinion, the land embraced in the reserve will not be sufficient to allot for each half-breed 640 acres. It is, however, understood that he claims that all the descendants of the half-breeds of 1830 are proper subjects to participate in the benefits of this land, under the Executive discretion, as they are to enjoy the right of occupancy while it is held in common.

Whether the Executive discretion be exercised, and the land set apart in severalty, or the proposal to issue scrip in lieu of the land be adopted, some legislative provision to guard the interests of the incompetent will be necessary.

I avail myself of this occasion to say that the lands assigned, by the 10th section of the same treaty, to the half-breed Ottoes and others between the two Nemaha rivers, in the Indian country, in view of the expected changes in that country, should, before the same embarrassment and difficulties that surround the Lake Pepin reserve, be adjusted with reference to the settlement and occupancy of the Indian country, before that event occurs.

Very respectfully, your obedient servant,

GEO. W. MANYPENNY,
Commissioner.

HON. R. McCLELLAND,
Secretary of the Interior.

GENERAL LAND OFFICE,
February 23, 1854.

SIR: I have the honor to acknowledge the receipt of your communication of the 20th instant, and, in relation thereto, beg leave to state: that on the first view of the case, I was inclined to consider the Sioux half-breeds as a band of that nation whose lands could only be acquired by treaty. Having understood, however, from Hon. Mr. Rice and others, perfectly familiar with the facts, that such is not the case, but that they are American citizens, and for that reason the Senate properly refused to treat with them, the only mode of removing this reservation is to extinguish their claims under the treaty of 1830, by purchase with money, or in the mode contemplated by the bill which you enclosed. The latter, in my opinion, is preferable, for every reason. No proposition, however, is made for the expenses attending the taking of the census of the persons contemplated by this bill, for preparing or issuing the scrip, or for necessary surveys. These expenses will not be heavy or important; but it would seem expedient to attach another section, providing that they shall be paid out of any money in the treasury not otherwise appropriated.

The regular surveys have been extended almost up to this reservation, and it would be expedient that they should be continued so as to include it. The outer boundaries of the reserve could be run to ascertain its area, and the amount, not exceeding 640 acres in any case, to which each would be entitled under the treaty. There would be no necessity, however, for making fractions on each side of the boundaries of this reserve, as the scrip proposed by the act could be located by legal subdivisions.

By this means the harmony and uniformity of the surveys would not be marred, and the expense would be less than if the reserve were specially surveyed.

The following is respectfully suggested as the draught of the additional section:

"SECTION 2. *And be it further enacted,* That all necessary expenses of taking the census of said half-breeds, issuing the scrip, and making surveys, not exceeding the usual rate per mile allowed by law for such surveys in that region, shall be paid out of any money in the treasury not otherwise appropriated."

The papers accompanying your letter are herewith returned.

I am, very respectfully, your obedient servant,

JOHN WILSON,
Commissioner.

Hon. D. B. WRIGHT,
of the Committee on Indian Affairs, House of Reps.