

SURVEY, ETC., OF FLATHEAD INDIAN LANDS, MONTANA.

MARCH 17, 1904.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

REPORT.

[To accompany H. R. 12231.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 12231) for the survey and allotment of lands now embraced within the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment, having had the same under consideration, submit the following report and recommend the passage of the bill with the amendments herein set forth.

In line 6, page 3, after the word "by," insert "the smallest."

In line 7, page 3, after the word "subdivisions," insert "of forty acres each."

In line 20, page 3, strike out the word "six" and insert the word "eight."

After the word "employed," in line 20, insert "with such assistance as may be necessary, at a salary not to exceed six dollars per day while so actually employed."

In line 23, page 3, after the word "agent," insert "and inspector."

On page 4, line 17, after the word "occupied," insert "not exceeding two sections in any one township."

On page 6, line 24, after the word "cash," insert "or at public auction, as the Secretary of the Interior may determine."

On page 7, line 13, strike out the word "only."

On page 8, line 6, strike out the words "at public auction."

On page 8, line 16, strike out the words "excepting the" and in lieu thereof insert the word "and."

In line 24 strike out the word "give" and insert the word "aid;" and also strike out the word "a."

In line 25 strike out the word "start;" also the words "the pursuit of;" also the word "or;" and insert in lieu thereof "and."

On page 9, line 3, strike out the words "time that this act shall take effect" and insert in lieu thereof the words "date of the proclamation provided for in section nine hereof."

In line 14, after the word "necessary," insert "the same to be reimbursable out of the funds arising from the sale of said lands."

By the treaty with the Flathead Indians, made by Governor Stevens when this reservation was set aside, it was expressly provided:

ART. 6. The President may from time to time, at his discretion, cause the whole, or such portion of such reservation as he may think proper to be surveyed into lots, and assign the same to such individuals or families of the said confederated tribes as are willing to avail themselves of the privilege and will locate on the same as a permanent home on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable.

The article in the Omaha treaty referred to expressly provides for the sale of all the surplus lands, paying the proceeds to the Indians.

There are included in this reservation about 1,450,000 acres of land. It is estimated that 100,000 acres will cover the allotments for all Indians on the reservation, leaving 1,350,000 acres for settlement. Some of the most fertile lands in the State of Montana are embraced within this reservation and are now lying idle and unoccupied.

By the terms of the bill all of these lands are to be appraised by a commission of five persons, two of whom shall be members of this tribe, two of whom shall be citizens of the State of Montana, and one a special agent of the Indian Bureau.

All of the proceeds of sales, except the expense of administering this trust, go to the Indians themselves. We believe no fairer plan can be devised to protect every right of the Indians. The United States, under the terms of this bill, acts as trustee only, and assumes no liability. No appropriation is called for, except for the payment of sections 16 and 36 at \$1.25 per acre, the same to be ceded to the State of Montana for school purposes, in accordance with the enabling act of Montana, which will require not to exceed \$100,000.

The Department of the Interior recommends the passage of the bill.

Appended hereto is a letter from the honorable Secretary of the Interior relative to H. R. 8324, which is substantially the same as the present bill, it having been amended in accordance with the recommendations of the Department.

DEPARTMENT OF THE INTERIOR,
Washington, January 23, 1904.

SIR: I am in receipt of your letter of the 13th instant, inclosing H. R. 8324, being a bill "for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment," and asking for a report on the same.

In reply I would state that it has been the desire of the Department for some time to take steps to allot the Indians of the Flathead Reservation upon tracts of land in severalty, to make provisions for the irrigation of their allotments, where needed, and to place all the Indians on the reservation in a position to improve their condition and support themselves, and with certain amendments, which are indicated and set out below, I believe that these objects can be accomplished by the proposed bill, if enacted into law, viz:

Section 2.—In line 4 of page 2 the words "now holding tribal relations" should be stricken out and the words "having tribal rights" substituted therefor. The language employed in the bill as it now stands is thought to be somewhat ambiguous, and if amended as indicated the rights of any persons as Indians on said reservation if questioned may be determined by the Interior Department in the usual manner.

In line 8 of page 2, after the word "Reservation," insert the words "including the Lower Pend d'Oreille or Calispel Indians now on the reservation." This amendment is deemed to be very necessary in order to fix the status of this band of

Indians upon the Flathead Reservation, which is now very doubtful and open to question. In the spring of 1887 the Northwest Commission concluded agreements with the Indians of the Flathead Reservation and the Indians known as the Lower Pend d'Oreille or Calispels residing along the Calispel River in eastern Washington, by the terms of which the latter Indians were to remove to the Flathead Reservation. In anticipation of the ratification of this agreement about one-half of said Calispels under Chief Michael (Michel), removed to the reservation. The other half never removed and are still in the vicinity of their old home in Washington. These two agreements were duly submitted to Congress, but for some reason (unknown to the office) they were never ratified. The necessity for fixing the status of the Calispels now on said Reservation will therefore be apparent.

Section 3.—The Department believes that the work of classifying and appraising the lands of the said reservation can be equally as well accomplished by a commission of three persons as by one consisting of five. It is therefore recommended that in line 12 of page 2, the word "five" be stricken out, and the word "three" substituted therefor, and that lines 16 to 22 be stricken out and the following substituted in lieu thereof: "One of said commissioners so named by the President shall be an Indian having tribal rights on the Flathead Reservation, such commissioner to be designated by the chiefs and headmen of said confederated tribes of Indians; one of said commissioners shall be a resident citizen of the State of Montana; and the third commissioner shall be a United States special Indian agent or Indian inspector of the Interior Department."

Section 4.—In line 3 of page 3, it is recommended that the word "seven" be stricken out and the word "five" substituted therefor, so as to provide for a salary for the clerk to said commission at \$5 per day instead of \$7. It is believed that \$5 per day will be ample to secure the services of a competent clerk to perform the duties required.

Section 5.—In line 5 of page 3, after the word "appraise," it is suggested that the words "by legal subdivisions" should be inserted, and it is so recommended.

Section 6.—The first clause of this section fixes a maximum limit at which said commission may appraise the several classes of land. The Department is emphatically of the opinion that no such limit should be fixed, but that the appraisals should be placed at their real valuation as to each of the different classes of lands. It is therefore recommended that lines 13, 14, 15, 16, and 17, and all excepting the word "said," in line 18, be entirely eliminated and stricken out.

It is also believed that the timber lands should have the timber thereon estimated by legal subdivisions instead of 160-acre tracts. It is therefore recommended that in line 21, page 6, the words "legal subdivisions" be substituted for the words "subdivisions of one hundred and sixty acres thereof."

Section 7.—In line 5 of page 4 the word "each" should be added after the words "per day" so as to provide for a per diem of \$10 for each of the two commissioners, excepting the special agent or inspector. Also in line 7 on page 4 the word "complete" should be "completed."

Section 8.—In line 11 of page 4 the words "such classification and appraisement" should be stricken out and the words "the same" inserted. Also in line 12 of page 4 the word "same" should be stricken out and the word "land" inserted therefor.

In line 22 of page 4 the words "herein ceded" should be stricken out and the words "under consideration" substituted therefor. The Flathead Indians have not agreed to any cession of the lands comprising their reservation, and no such cession is contemplated.

The provision in section 8 as to payment by the United States for the State school lands is not perfectly clear and makes no provision as to the price per acre to be paid. It is recommended that in lines 23 and 24 of page 4, and line 1 of page 5, the words "which shall be paid for by the United States as herein provided in a quantity equal to the loss, and" be eliminated and stricken out, and that the following proviso be added at the end of the section, line 2, page 5, as follows: "Provided, That the United States shall pay to said Indians for the lands in said sections 16 and 36, or the lands selected in lieu thereof, the price per acre at which the same are appraised by the aforesaid commission."

Section 9.—The provision regarding the proclamation of the President opening the surplus lands appears to be somewhat ambiguous as it now stands. It is suggested that after the word "prescribe," in line 5 of page 5, the words "the time when and" be inserted, and that in lines 9, 10, and 11 the phrase "until after the expiration of sixty days from the time when the same are open to settlement and entry" be stricken out.

The Department is of the opinion that the provision in reference to the payments to be made by settlers on said lands should be changed so as to require a larger cash payment at the time of entry. It is therefore recommended that the words "the

appraised value thereof in five annual payments annually in advance," lines 21 and 22, page 5, should be stricken out, and the following words substituted therefor: "One-third of the appraised value in cash at the time of entry, and the remainder in five equal annual installments to be paid one, two, three, four, and five years, respectively, from and after the date of entry." The words "in advance," in line 24, same page, should be stricken out.

The provision in lines 8, 9, 10, 11, page 6, authorizing the Secretary of the Interior to excuse a settler for failure to make the required payments and to defer the same, should be entirely eliminated. From past experience I am convinced that if the Indians are to receive the full valuation for their lands, and to receive it promptly, that no permission should be granted to any settler to defer the time of making payments.

Section 10.—At the end of this section, line 19, page 6, the following provision should be added: "Provided, That no such mineral locations shall be permitted upon any lands allotted in severalty to an Indian." To permit mineral locations to be made upon the lands allotted to Indians will only invite future trouble for the allottee, and in their behalf and for their protection no such location should be permitted under any circumstances.

Section 11.—This section should be amended by inserting, after the words "Secretary of the Interior," in line 22, page 6, the words "under sealed bids." Full prices for such timber lands and fair competition can best be secured by disposing of the same under sealed bids.

Section 12.—It is recommended that the words "six hundred and forty" should be substituted for the words "three hundred and twenty" in line 25, page 6, and that after the word "Jesus" in line 6, page 7, the words "such lands to be reserved for the uses indicated only so long as the same are maintained and occupied by said society for the purposes indicated" be added.

It is recommended further that the following clause be inserted after the addition last mentioned: "The President is also authorized to reserve lands upon the same conditions and for similar purposes, for any other missionary or religious societies that may make application therefor within one year after the passage of this act, in such quantity as he may deem proper."

Section 13.—In line 19, page 7, the words "one dollar and twenty-five cents per acre" should be stricken out, and the words "their appraised value" substituted therefor, and it is so recommended.

There can be no justification for selling lands at \$1.25 per acre that are appraised at \$3 or \$4 per acre, or perhaps more. There is no doubt but that lands which remain unentered by homesteaders with the requirement of settlement and residence for five years annexed, might readily sell for their appraised price without such requirements and in tracts of 320 acres. If it should happen that any of the tracts are appraised too high to secure purchasers or entrymen, then provision should be made for a reappraisal. Under no conditions should the price of sale be reduced below the appraised value.

Another point should be noted in this connection, and that is the probability that prospective settlers would be deterred from entering the lands at the appraised value, should they know, as proposed in the bill, that at some future time the lands might be procured at perhaps one-third or one-half the appraised price. A practical illustration of such a condition was afforded in connection with the opening of the Great Sioux Reservation, in Dakota, by the act of March 2, 1889 (25 Stat. L., p. 838).

Section 14.—Strike out the whole of section 14 and insert as follows:

"SEC. 14. That the proceeds received from the sale of said lands in conformity with this act shall be paid into the Treasury of the United States, and, after deducting the expenses of the commission, of classification and sale of lands, and such other incidental expenses as shall have been necessarily incurred, excepting the expenses of the survey of the lands, shall be expended or paid annually as they accrue, as follows: One-half shall be expended by the Secretary of the Interior, as he may deem advisable, for the benefit of said Indians and such persons having tribal rights on the reservation, including the Lower Pend d'Oreille or Calispels thereon at the time that this act shall take effect, in the construction of irrigation ditches, the purchase of stock cattle, farming implements, or other necessary articles to give the Indians a start in the pursuit of farming or stock raising, and the remaining half to be paid to the said Indians and such persons having tribal rights on the reservation, including the Lower Pend d'Oreille or Calispels thereon at the time that this act shall take effect, or expended on their account, as they may elect."

Section 15.—It is recommended that the following be substituted for section 15 of said bill:

"That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, such sum as may be necessary to pay for the lands granted to the

State of Montana, and for lands reserved for agency, school, and mission purposes, as provided in sections 8 and 12 of this act, at their appraised valuation; also the sum of seventy-five thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to survey the lands of said reservation, as provided in section 1 of this act."

In connection with the aforesaid proposed item for State school lands, the Department has to say that it would be impossible, in advance of the survey and appraisal of said lands, to estimate, even approximately, the value of such school lands. The reservation contains, it is now estimated, about 1,433,000 acres. One-eighteenth of this, which is to be donated to the State, would be about 80,000 acres. As it is believed that the average value of those lands will be considerably more than \$1 per acre, it will be seen that the proposed appropriation of \$90,000, as provided in said bill, would in any event be insufficient.

Section 16.—In line 15, page 9, after the word "township," insert "and the reserved tracts mentioned in section 12."

Section 17.—This section provides for the consent of the Indians to the provisions of the bill before the same shall become effective. The bill if amended as above recommended, will fully safeguard and protect the rights and interests of the Flathead Indians, and there is no occasion for presenting the matter to the Indians for the purpose of procuring their consent thereto. It is accordingly recommended that said section 17 be entirely stricken out.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

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