

INQUIRY CONCERNING APACHE INDIANS.

LETTER

FROM

THE SECRETARY OF WAR,

TRANSMITTING

INFORMATION IN RESPONSE TO SENATE RESOLUTION OF FEBRUARY 26, 1912, RELATIVE TO APACHE INDIAN PRISONERS OF WAR AT FORT SILL (OKLA.) RESERVATION.

MARCH 15, 1912.—Referred to the Committee on Indian Affairs and ordered to be printed.

WAR DEPARTMENT,
Washington, March 13, 1912.

The PRESIDENT UNITED STATES SENATE.

SIR: In compliance with Senate resolution 232, I have the honor to submit the following information:

First. There are 257 Apache prisoners of war now on the Fort Sill (Okla.) Reservation. Eighteen of this number are reported on the morning reports as scouts.

Second. Of the entire number, 138 are males and 119 females.

Third. Of the said male Indians, 98 are under 40 years of age.

Fourth. Thirty of the said Indians are known to have been engaged in hostilities against the United States or to have committed acts of violence against citizens or residents thereof.

Fifth. The following are the names, ages, present condition of health, and general conduct of the Indians coming under the terms of the last paragraph:

Tiss-nolth-tos, age 47; health good; conduct fair.

Calvin Zhonne, age 47; health fair; conduct fair.

Leon Ferico, age 60; health fair; conduct fair.

Beche, age 75; health fair; conduct fair.

Yar-no-zha, age 47; health good; conduct fair.

Christian Noiche, age 56; health fair; conduct has been very good for about a year past.

The above six surrendered with Geronimo in 1886.

Too-is-gah, age 51; health good; conduct fair.
 Jasper Kanseah, age 39; health good; conduct good.
 Kay-dah-Zinne, age 51; health good; conduct fair.
 Nah-do-Zinne, age 51; health good; conduct fair.
 Kay-ih-tah, age 51; health good; conduct fair.
 Mithlo, age 48; health good; conduct good.
 Ky-zah, age 48; health good; conduct fair.
 Tah-ni-toe, age 57; health good; conduct fair.
 Tse-de-Kisen, age 53; health good; conduct fair.
 Martine, age 54; health good; conduct fair.
 Binday, age 54; health good; conduct good.
 Fatty, age 54; health good; conduct fair.
 Dexter Loco, age 48; health good; conduct good.
 Harold Dick, age 69; health good; conduct fair.
 Paul Gey-dil-Kon, age 52; health good; conduct fair.
 Nah-nal-Zhuggie, age 51; health good; conduct fair.
 José, age 53; health good; conduct fair.
 Kah-ah-te-nai, age 51; health good; conduct fair.
 Coonie, age 56; health good; conduct good.
 As-toy-eh, age 50; health good; conduct fair.
 Tzozonna, age 52; health good; conduct fair.
 Jason Betzinez, age 51; health good; conduct good.
 Chiracahua Tom, age 62; health good; conduct fair.
 Chatto, age 58; health good; conduct fair.

Due to the proximity of a town, which makes it exceedingly easy for these Indians to obtain intoxicants, it is believed that many of them are addicted to drink. The condition of these Indians would undoubtedly be improved by removing them to a reservation where this craving for drink could not easily be satisfied.

Sixth. There is no military necessity for continuing to hold these Apache Indians as prisoners of war if provision can be made for their location elsewhere than on the Fort Sill Reservation and if the Indians desire to remove therefrom.

Seventh. While these Indians were originally taken charge of as prisoners of war, the necessity for holding them as such has long since terminated, and they have in fact been regarded as being under the tutelage and control of the War Department, by reason of their establishment on the Fort Sill Reservation; that considerations of humanity required that when the adult males were originally taken charge of as prisoners of war the women and children should be allowed to accompany them and be subsisted with them; that the lack of provision elsewhere for these Indians has made it necessary to continue this guardianship and control over the prisoners who have come of age since the original surrender, as well as over those who have been born since that time; and that the establishment of these Indians on the reservation has been recognized by Congress in the sundry civil act of June 28, 1902 (32 Stat., 467), "for the support and maintenance of the Apache prisoners of war permanently established at Fort Sill, Okla., under control of the War Department;" and by similar provision made in the urgent deficiency act of February 18, 1904 (33 Stat., 26).

Inclosed is a memorandum by the Judge Advocate General giving a history of the Apache prisoners of war since their surrender in 1886 and their establishment upon the Fort Sill Reservation.

Very respectfully,

H. L. STIMSON,
Secretary of War.

THE APACHE PRISONERS OF WAR AT FORT SILL.

[Memorandum by the Judge Advocate General.]

The band of Apache Indians who were established on the military reservation at Fort Sill in 1894 had been engaged for many years prior to 1886 in acts of hostility against the people of the United States. These acts were terminated by their surrender to the military authorities near Fort Bowie, Ariz., in September, 1886. With a view to their protection they were sent to San Antonio, Tex., where they remained for a time until some permanent arrangement could be made for their care and protection. They were finally located at Fort Marion, Fla., where they remained for a number of years. As Fort Marion was found to be an unsuitable place they were subsequently removed to Mount Vernon Barracks, Ala.

As the climate at Fort Marion and Mount Vernon Barracks was quite different from that to which they had been accustomed in South Carolina, Arizona, and northern Mexico, disease from which they had theretofore been immune crept in among them and upon full consideration of the situation by the Secretary of War they were permanently established on the Fort Sill Military Reservation in 1894.

As these Indians had been engaged in the commission of hostile acts for a number of years they were regarded, at their surrender, as occupying the status of prisoners of war and were subsisted and maintained as such. As the hostilities in which they had taken part have long ceased to exist, their temporary status as prisoners of war terminated, and they have since been regarded as a band of dependent Indians held in custody of the United States and under the special protection and control of the War Department. This status, as to some of its essential incidents, continues to exist.

The present military reservation at Fort Sill was originally set apart as an Indian reservation for the use and benefit of the Wichita, Kiowa, Comanche, and Apache Indians. On October 7, 1871, a tract of 23,048 acres was set apart by Executive order as a military reservation. After the removal of the Apaches to the Fort Sill Reservation in 1894, it was found that some additional land was necessary for their accommodation, and a tract of 26,987 acres was added to that reservation by Executive order dated February 26, 1897 (G. O. 14, A. G. O., Mar. 15, 1897). This addition is in two parcels of about equal size, lying at the eastern and western extremities of the original reservation, and for that reason is known as the "eastern and western addition" to the military reservation. Subsequently two smaller tracts, of 893 and 372 acres, respectively, were added to the reservation with a view to adjust its boundaries to the existing public-land system; this was accomplished in Executive orders dated September 20, 1901, and August 29, 1907, so that the present acreage is 51,292 acres. These constitute the "northern and southern addition" to the reservation and may be dismissed from further consideration.

The legislation referred to in your memorandum of the 16th instant will now be considered. The attention of Congress was first drawn to the location of the Apaches when the Army appropriation act was undergoing consideration in 1894; as a result of such consideration, the following enactment was adopted:

The Secretary of War is hereby authorized to remove to such military reservation or reservations as he may select, the Indian prisoners of war now confined at Mount

Vernon Barracks, Alabama, and for the purposes of the erection of buildings, purchase of draft animals, stock, necessary farming tools, seeds, household utensils, and other articles needed for said Indians and generally for their support and civilization, the sum of fifteen thousand dollars is hereby appropriated, in addition to the sums herein appropriated, to be expended under the direction of the Secretary of War. (Act of Aug. 6, 1894; 28 Stat. L., 238.)

The act of February 12, 1895, contained the following clause:

Maintenance and support of the Apache Indian prisoners of war, removed from Mount Vernon Barracks, Alabama, to military reservations in compliance with the provisions of the Army act, approved August sixth, eighteen hundred and ninety-four and for the purposes of the erection of buildings, purchase of draft animals, stock, necessary farming tools, seeds, household utensils, and all other necessary articles absolutely needed for their support and civilization, in addition to the sums herein appropriated, to be expended under the direction of the Secretary of War, ten thousand dollars. (Act of Feb. 12, 1895; 28 Stat. L., 658.)

The act of March 16, 1896, contained the following provision:

Maintenance and support of the Apache prisoners of war at Fort Sill, Oklahoma, and for the purpose of the erection of buildings, purchase of stock, necessary farming tools, seeds, household utensils, and other necessary articles and expenses absolutely needed for their support and civilization, in addition to the sums herein appropriated, to be expended under the direction of the Secretary of War, seven thousand five hundred dollars. (Act of Mar. 16, 1896; 29 Stat. L., 64.)

The sundry civil act of June 28, 1902, contains the following requirement:

Establishment of Apache prisoners at Fort Sill, Oklahoma: For the erection of buildings and repairs of same, purchase of draft animals and live stock for breeding purposes, farm and household utensils, blacksmith and wheelwright tools and repairs to same, and all other necessary articles absolutely needed for the support and maintenance of the Apache prisoners of war permanently established at Fort Sill, Oklahoma, under control of the War Department, four thousand dollars. (Act of June 28, 1902; 32 Stat. L., 467.)

Similar provision was made in the urgent deficiency act of February 18, 1904 (33 Stat. L., 26).

It was the purpose of the department in establishing the additional reservation in 1897 to furnish accommodations for the Apache prisoners of war. To that end Capt. Hugh L. Scott, Seventh Cavalry, was instructed to confer with the Kiowa and Comanche Indians with a view to obtain their consent to the establishment of the Apaches on an extension of the military reservation at Fort Sill, and in their immediate vicinity. Capt. Scott was entirely successful in this undertaking, and on February 20, 1897, reported to the department that the Kiowas and Comanches were willing that the Apache prisoners from Mount Vernon should be located on an addition to the military reservation at Fort Sill. Whereupon, by an appropriate Executive order, dated February 26, 1897, the parcels constituting the "eastern and western additions" were set apart as a military reservation.

In concluding this branch of the subject, it is proper to say that the eastern and western additions constitute a military reservation, charged with a use in behalf of the Apache prisoners of war; this is made clear by the language used in the Executive order in the operation of which the reservation was extended, in which it was said that the lands specified in the order were reserved "for exclusive use for military purposes, and for the permanent location thereon of the Apache prisoners of war"; and the agreement with the Kiowa, Comanche, and Eastern Apaches, which was entered into by Capt. Scott, in the agreement which is referred to in the memorandum of the Chief of Staff, dated December 10, 1910.

It will be noted that the clause of legislation last above cited (*supra*, p. 3) contains the declaration that the Apache prisoners had been "permanently established at Fort Sill, Okla., under control of the War Department." This represents the final outcome of several executive and legislative acts had in pursuance of a formal agreement with the Apache Indians themselves, and with the Kiowa and Comanches, in whose territory they were to be established. It is true that the agreement was not a "treaty" in the sense in which that term is used in the Constitution, but it was a formal obligation entered into with bands of Indians having diverse and, to some extent, conflicting interests which were finally adjusted by the War Department, and, as so adjusted, were expressly recognized by Congress in an act of constitutional legislation.

The result has been, in the opinion of this office, to create a permanent status for the Apache Indians in the Fort Sill Reservation, which can only be removed, as it was created, with the consent of the Indians and the approval of Congress.

As the condition of fact, as established by executive and legislative action, have not changed, it is believed that an attempt to open any portion of the reservation for purposes of the allotment of its lands in severalty would be inexpedient at this time, and legislation to that end should not be favorably recommended to Congress.

Since the eastern and western additions to the original military reservation were made, it has been found that the enlarged reservation is in the highest degree necessary for military purposes in the training and instruction of the troops, especially of the Field Artillery, and in the conduct of joint and separate camps of maneuver for practical instruction in field service. If the Fort Sill Reservation, or any portion of it, were to be abandoned, or diverted to any other use, the training and efficiency of the troops would suffer, and it would be found necessary to acquire a tract of equal size, at a very considerable expense, for training and maneuver purposes.

It is therefore recommended that the military reservation, as added to since the date of its original establishment, continue in the use to which it was assigned in the several Executive orders which created it; that the Apache prisoners be maintained there until a suitable and convenient occasion presents itself for their removal to another reservation, when the entire matter should be presented to Congress, with a view to the transfer of the Apache prisoners, with their consent, to another reservation, where they can be furnished with accommodations equal to those which they now enjoy in the operation of the legislation hereinbefore cited.

Very respectfully,

GEO. B. DAVIS,
Judge Advocate General.

DECEMBER 23, 1910.



