

University of Oklahoma College of Law
University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

3-27-1844

Bryan, John A

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>

 Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Rep. No. 359, 28th Cong., 1st Sess. (1844)

This House Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

JOHN A. BRYAN.

[To accompany bill H. R. No. 272.]

MARCH 27, 1844.

Mr. BIDLACK, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to whom was referred the petition and documents of John A. Bryan, late a commissioner appointed under the Government of the United States to execute a treaty with the Wyandot Indians, report:

That on the 19th of April, 1836, Mr. Bryan was appointed a commissioner for the above purpose, as will be seen by the letter of appointment and instructions of that date, from Mr. Cass, then Secretary of War.

In pursuance of those instructions, a treaty was concluded (so far as the same could then be done, before the sale of lands appointed to be sold under it) on the 23d of the same month.

On account of services rendered while in Washington, in procuring the treaty, Mr. Bryan received from the Government the sum of \$48. The claim for which an appropriation is now asked, is for additional services rendered after returning from Washington, in seeing to the survey of the 40,000 acres of land authorized to be sold under the said treaty, and in providing for the same agreeably to instructions.

Forty-five days in all, at \$8 per day, amounting to	-	-	\$360 00
Mileage from Columbus, Ohio, and returning, 400 miles, at \$8 for every 20 miles, as per statement marked A	-	-	320 00
Mileage to Cincinnati and returning, 230 miles; to Sandusky, 65 miles, and returning, same—360 miles in all, at \$8 for every 20 miles	-	-	144 00
			<hr/>
			\$824 00

The instructions upon this point are in the following terms:

“As they (the Wyandots) have evinced a desire that the whole proceeds should be applied to their own benefit, the President is willing to indulge them in this request; and you are therefore authorized to provide for the survey and sale of the tract that may be ceded, upon the same principles that the public lands are surveyed and sold. The proceeds will, in the first instance, be applied to the payment of all expenses in carrying the treaty into effect, and a portion of the residue will be paid over for such objects of public concern as may be designated by them. The balance will be distributed as annuities are divided among them. You will take

care that such securities are interposed in the treaty as to secure the faithful application and accountability of the money. While engaged in these duties, you will be allowed eight dollars per day." (Vide letter of instructions, marked B.)

The Commissioner of the General Land Office, under date of August 31st, 1842, states that all the lands referred to and included in the treaty under consideration, appear to have been sold in accordance with the stipulations of the treaty, as ratified by the Senate on the 16th day of May, 1836. (Vide Mr. Blake's letter, marked C.)

As evidence of non-payment on the part of the Government for the services referred to, the claimant produces the certificate of I. Lewis, acting Second Auditor of the Treasury, dated September 13, 1842. (Vide statement of Second Auditor, marked D.)

The claimant also presents the affidavit of P. McElvain, then register of the land office at Marion, Ohio, accompanied by a copy of the proclamation for the sale of the lands. Mr. McElvain states in his affidavit, that it is within the knowledge of the affiant that said Bryan superintended the execution of the said treaty; that said Bryan also corresponded and held consultations with him, from time to time, in reference to the sale in said proclamation mentioned; also, under his superintendence a surveyor was appointed, and the 40,000 acres laid off for sale and sold; that after the conclusion and ratification of said treaty, said Bryan must necessarily have been much engaged in carrying it into execution, and in corresponding with the affiant and the chiefs of the Wyandot tribe; that said Bryan must have been thus engaged, touching said treaty and sale, for more than one month altogether.

Mr. McElvain, the register, further testifies that Mr. Bryan made out and presented an account for services to the chiefs of the Wyandots, who declined paying, for the reason that the Government ought to pay it; that Colonel Johnson, the commissioner, concurred in this opinion; and that Mr. Bryan has not received anything for said services from the Wyandot nation. (Vide affidavit, dated September 6, 1842, marked E.)

The said P. McElvain, in further explanation of the services rendered by the claimant, under date of 27th February last, says that he was greatly and very materially aided in his duties by the advice and assistance of the said commissioner; and that, as near as he can recollect, he was advised from the War Department to freely consult with the said commissioner as to the matters and things attending the survey and sale of the said lands, and the proper protection of the Indians in their rights; that he frequently called upon the said commissioner for advice and counsel in the business; and he alleges that he does know that he rendered very essential and important services in the matter, such as he considered absolutely indispensable. And he further deposes and says, as he is informed, and verily believes to be true, that the claimant proceeded once to Cincinnati and back, 116 miles distant, to see and urge the surveyor general to provide for said survey; and once to Upper Sandusky, 65 miles, and back, on the said business; and that, exclusive of the time thus occupied, he (the claimant) was employed, in his opinion, at least forty five days. (Vide affidavit, marked E.)

In a letter on the same subject, addressed to the Commissioner of Indian Affairs, Colonel John McElvain sets forth the interest which the citizens generally in the interior of Ohio felt in this matter, and their desire to rid

the State of her Indians, particularly the Wyandots, who owned lands near its centre. The committee will not encumber this report with a reference to all the facts set forth in the letter. The most important point presented is in the following words :

"Mr. Bryan spent some considerable time in aiding to carry it (the treaty) into effect ; but how many days, I am unable to state. He nearly, if not quite, spent as much time as I did in bringing about the treaty, for which the chiefs paid me over \$400, and paid my expenses in going to and returning from Washington. Mr. Bryan had no claim on them, as he acted solely on behalf of the Government." (Vide letter of Colonel J. McElvain, dated September 8, 1842, to T. H. Crawford, esq., Commissioner of Indian Affairs, marked F.)

The Hon. Lewis Cass (who, it will be remembered, was Secretary of War at the time of the ratification of the treaty, and under whose instructions and directions the services were performed) writes to the following effect, under date of March 13, 1843 :

"I have again looked over the papers, and am yet wholly at a loss to conjecture why your claim has been rejected. It seems to me as unexceptionable in principle, as it is reasonable in amount." (Vide letter of Mr. Cass to Mr. Bryan, marked G.)

Also, Governor Cass, in addition to what he wrote to Mr. Bryan under date of the 13th of March, 1843, says, in a letter to the chairman of the Committee on Indian Affairs, "that it was a great object with the people of Ohio to have the Wyandots removed to the west, and their lands brought into market and cultivation ; and removal was no less important to the Indians, as they were wasting away in the position they then occupied. Efforts had repeatedly been made (but in vain) to effect this object. Mr. Bryan was requested by the War Department to arrange the matter with the Indians. He proceeded to Washington, and conversed with General Jackson and myself upon the subject, and the views of the Government were explained to him, and their urgent desire to bring the affair to a successful close. He undertook it, and succeeded.

"It is impossible, at this distance of time, to recall the particulars of the transaction. Mr. Bryan's conduct was entirely satisfactory to the President ; and it was, and is, my impression that he deserved great credit for his exertions. He was of course exposed to unusual expenses and difficulties, from being compelled to travel about, and from the nature of the transaction, which did not admit (like an ordinary Indian treaty) of an immediate close, but required time and repeated interviews, and renewed applications, before the favorable moment could be found.

"The reservation was ceded, the lands sold, all the arrangements with the Indians honestly carried into effect ; and this was done satisfactorily to all parties.

"This is the result of my general impression ; and I beg leave to add what I have before stated, that I cannot perceive what reason there can be why the claim of Mr. Bryan should not be paid." (Vide letter of Governor Cass, under date of January 18, 1844, marked G.)

The letter of ex President Jackson, dated October 28, 1843, and marked H, sets forth the reasons why the Executive could not order the account to be paid, and the grounds upon which Congress should make an appropriation for the payment of the claim. He recommends, in conclusion, as the claim appears reasonable and just, that Mr. Bryan should apply to

Congress, through the Secretary of War, for the necessary appropriation to pay the same. (Vide General Jackson's letter of October 28, 1843, marked H.)

The Secretary of War, agreeably to the suggestion of General Jackson, in a note, recommends the appropriation by Congress. He says that he was perfectly satisfied that Mr. Bryan had a full claim for the amount presented, and that the services rendered were important and valuable; but that he had not the authority, for want of an appropriation, to pay the claim; that the Committee on Indian Affairs could remedy the matter, by recommending, and Congress passing, a bill appropriating the necessary amount, or directing its payment by the Indian Office. (Vide Mr. Porter's note, dated 9th of January, 1844, marked J.)

Mr. P. McElvain, who was, at the time of the treaty, register of the land office at Marion, Ohio, speaks of the claim in the following language:

"Your account is just and correct, there is no mistake, and ought to be allowed. That was the opinion of Colonel Johnson at the time I presented it to the chiefs for settlement. He said it was a just debt, and that the Government ought to pay it without hesitation." (Vide Mr. McElvain's letter, marked I.)

In view of all the facts thus adduced by Mr. Bryan, (as embodied in the affidavits, letters, and papers presented in support of his claim,) the committee have arrived at the conclusion to allow him the sum of eight dollars per day, as stipulated in the letter of instructions from the War Department, for the time he was in the service of the Government, as set forth in his account; and also five dollars for every twenty miles travel, as set forth therein, deducting therefrom the mileage in proceeding from Columbus, Ohio, to Washington city—making, in all, the sum of five hundred and fifty dollars; and the committee report a bill accordingly.