4-6-1846

George Moffit

29th Congress, 1st Session. Rep. No. 560. Ho. of Reps.

GEORGE MOFFIT.

April 6, 1846.

Read, and laid upon the table.

Mr. Albert Smith, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom was referred the petition of Margaret Moffit and others, daughters and devisees of George Moffit, deceased, respectfully report:

That they have had the same under consideration, and concur in and adopt the following report made in this case at the 2d session of the 25th Congress, to wit:

January 27, 1838.

The Committee on Private Land Claims, to whom was referred the petition of Margaret Moffit and others, daughters and devisees of George Moffit, deceased, respectfully report:

That, from an examination of the documents and vouchers presented and referred to in support of this claim, it appears that George Moffit, the father of the petitioners, died since the year 1818, leaving a valid will, by which he devised his interest and claim, which the petitioners seek to establish, to them and their heirs. It appears that said Moffit was, early in life, taken prisoner by the Shawnee tribe of Indians, and was adopted by them as one of their tribe, under the name of Kittahoe; that, in a treaty concluded between the government and the Shawnee Indians, for the purchase of their lands, a tract of land, of ten miles square, was agreed to be granted by the United States to certain chiefs of said tribe, for the use of certain individuals of the tribe, named in a schedule appended to the treaty, and to be equally divided between them. The tract so granted was to be so located that the council-house at Wapahkonetta should stand in the centre of it. The said George Moffit, by his Indian name, Kittahoe, is included in the schedule, with one hundred and forty-one others, as the persons for whose use the tract was to be granted, which would give 458 acres, nearly, or something less than three quarter sections, to each person. By a treaty concluded the year following, but ratified by the Senate of the United States at the same time with the foregoing, and declared to be taken as part and parcel of the former, and both to be considered as one treaty, the agreement on the part of the United States to

Ritchie & Heiss, print.

grant the foregoing tract of land was changed into a reservation, on the part of the tribe, of the same tract, similar to other Indian reservations to be reserved for the use of the persons named in the schedule, and be held by them and their heirs forever, unless ceded to the United States. This change from a grant of the fee, as contemplated in the first treaty, to an exception out of the grant to the United States, and the reservation of the original Indian title, materially affects the question of the liability of the United States to respond to the claimants.

By a treaty made subsequently with the Shawnee tribe of Indians, they ceded to the United States all the lands reserved to them in the above mentioned treaties, in exchange for certain lands west of the Mississippi river, and sold the government their improvements; but nothing was set apart specifically for the petitioners. Under these circumstances, the petitioners ask a grant of 640 acres of land, in lieu of their interest under the first above described treaty. The chiefs and head men of the tribe also unite in the petition, and say that they did not at the time the last treaty was made, recognise the right and interest of the heirs of Kittahoe to any share of the proceeds of the benefits received from the United States under that treaty, although their attention was called to it; yet they have since become convinced that they were then wrong, and that the heirs ought to be compensated; and they express their assent that, if necessary, the amount which ought to be allowed to said heirs may be deducted from annuities payable from the government to said tribe. In the last mentioned treaty it is recited that the Shawnee tribe held the lands by patent from the United States, granted pursuant to the treaty of 1817. It has been seen that that treaty, as the same was finally ratified in connexion with the treaty of the next year as one treaty, did not operate as a *grant* from the United States, nor authorize a grant by patent; and, on referring to the land office, it appears that what is termed a *grant* under a patent, in the last treaty, is merely a certificate of survey, showing the metes and bounds of the lands reserved by the tribe; so that there never was any other than the original Indian title to the lands reserved, and those were, in terms, reserved subject to be ceded to the United States by the tribe thereafter. In this view of the case, it is manifest that it was competent for the government to purchase this reservation of the constituted authorities of the tribe, and that whatever equities the heirs of Kittahoe may have is a matter between them and the tribe of their father's adoption, precisely the same as if they were still members of that tribe, and the United States government can properly have nothing to do with it. With regard to the offer of the chiefs and head men of the tribe to permit the equitable claims of Kittahoe's children to be paid to them by the government, and deducted from their annuities, it is not deemed proper for the legislative power to interfere in the matter. If the chiefs and head men have power to make the compensation in this circuitous and indirect manner, they have equally the power to do it directly. The committee therefore deem the claim unfounded, and ask to be discharged from the further consideration of the petition.