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### Report : Petition of J. Horne

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S. Rep. No. 1, 34th Cong., 1st Sess. (1856)

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1856.—Ordered to be printed.

Mr. BROWN made the following

## REPORT.

[ To accompany bill S. 46.]

*The Committee on Indian Affairs, to whom was referred the petition and papers of John H. Horne, of Mississippi, make the following report:*

Mr. Horne became the purchaser of certain Indian reservations under the treaty of Dancing Rabbit Creek, and paid to the Indians, according to contract, fifty cents per acre for the land so purchased, Afterwards the President of the United States (General Jackson) directed the patents to be withheld until said Horne should pay an additional sum of seventy-five cents per acre. This Horne agreed to do. In December, 1838, A. A. Kincannon, esq., was appointed an agent by the President to investigate, adjust and settle the matters in dispute growing out of the purchase of these reservations. To this Agent Horne paid the additional seventy-five cents per acre and Kincannon reported the payment to the department. He failed, however, to account for the money and subsequently died insolvent. The department refused to acknowledge the validity of the payment and required Horne again to pay seventy-five cents per acre for the land, which he did—protesting that it was unjust. The official correspondence exhibits the facts that Kincannon was the agent of the government—that he received the money in December, 1839, and that no objection was made to its reception until March, 1843.

Then, for the first time, the Secretary of War notified the agent that the currency in which the payment was made had depreciated and that the government would not receive it. The committee think the last payment was improperly demanded and report a bill for the relief of the petitioner. An official letter from the Commissioner of Indian Affairs is appended to this report, as follows:

DEPARTMENT OF THE INTERIOR,  
*Office Indian Affairs, December 28, 1854.*

SIR: In reply to the inquiries made in your letter of the 26th instant, on behalf of the Committee of Indian Affairs of the Senate, I have the honor to state as follows:

I. The papers in the cases of Wanayabe (or Nanayaba,) Pashonawabi, Achatonabe, and Ibakahaba, to which your inquiries refer, show that John H. Horne paid a small fraction over fifty cents per acre to said Indians for the tracts of land reserved to them respectively under the provisions of the 19th article of the Choctaw treaty of 1830; and,

II. That he was subsequently required to pay seventy-five cents per acre, to make up the price of \$1 25 per acre, under a decision of President Jackson; and, it appears, did pay that sum to Colonel A. A. Kincannon, an agent of the government, as appears from said agent's report of December 7, 1839, to Commissioner Crawford.

III. In consequence, however, of the money so paid having been in a currency which had depreciated, the Secretary of War, in March, 1843, decided that, as a condition precedent to the approval of said deeds, the purchasers, or their assignees, should pay into this office, in specie or its equivalent, the several sums required by Colonel Kincannon to make the price of the lands equal to \$1 25 per acre; and, to enable them to do so, Colonel Kincannon was requested to return the money deposited with him to the depositors. On March 10, 1843, he acknowledged the receipt of the letter communicating the Secretary's decision, and promised that the matter should receive his attention without unnecessary delay; but, since then, nothing further has been received from Colonel Kincannon on the subject.

The department having adhered to the decision above referred to, Mr. Horne, in October, 1850, in compliance therewith, enclosed a draft for \$657 50, the sum required by Colonel Kincannon; whereupon the four deeds were reported for approval in November, 1850, and received President Fillmore's approval December 9, 1850.

IV. One dollar and twenty-five cents per acre was the minimum required under the decision of President Jackson as a condition precedent to the approval of the sale of Choctaw reserves; although, where the evidence adduced showed that the land sold was worth more than that sum, evidence of its payment to the reservee or his heirs was required as a condition precedent to the approval of the sale.

According to request, the papers which accompanied your letter are herewith returned.

Very respectfully, your obedient servant,

GEORGE W. MANYPENNY,

*Commissioner.*

Hon. A. G. BROWN, *United States Senate.*