

2-28-1860

Report : Memorial of M. Sweetser

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

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

Recommended Citation

S. Rep. No. 90, 36th Cong., 1st Sess. (1860)

This Senate 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.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 28, 1860.—Ordered to be printed.

Mr. SEBASTIAN made the following

REPORT.

[To accompany Bill S. 150.]

The Committee on Indian Affairs, to whom was referred the memorial of M. Sweetser, report :

That during the year 1852, and prior thereto, the memorialist was a licensed trader, and had a store of goods at Traverse des Sioux, in Minnesota, upon the Minnesota river; and that during said year certain bands of said Indians, being in a suffering and destitute condition, he supplied them with provisions, blankets, guns, and ammunition, absolutely necessary for their support and preservation. That in general council of said Indians, (the See-se-ton and Wah-pay-toan bands of Sioux,) they acknowledged their indebtedness for those supplies, and gave to said Sweetser a certificate, or order, payable out of their annuities, as the general fund for that purpose appropriated, by the then recent treaty between them and the United States, had been exhausted in the payment of older, but similar claims. The certificate of indebtedness was for the sum of \$11,969 71, which corrected was then supposed to be the true amount, but was subsequently, and as will be seen, was clearly demonstrated to be less than the true amount; that afterwards, when this certificate was presented for payment to the Indian Office, it was refused upon the ground that the items should be stated, and that the justice of the claim, verified by other testimony than that afforded alone by this certificate. To that end, a commission was appointed, consisting of Governor W. A. Gorman, then, by virtue of his office, Superintendent of Indian Affairs, and the local agent, R. W. Murphy, to investigate this claim. That this commission discharged their duty by a rigid scrutiny of the books and accounts of the memorialist, an examination of his clerk under oath, who was cognizant of the whole transaction, and by inquiry of the Indians in open council. Their final report disclosed the fact that, in consequence of omissions in drawing off the items from the original entries, the true amount was \$13,108 68, thus making a difference of \$1,138 97, the amount now claimed as due by the memorialist. That in consequence of some of the items being charged at a higher rate than the commissioners deem it fair and usual, they recommended a deduction of \$500 from the amount found by them to be really due. That in the

payment of the claim, the Commissioner of Indian Affairs deducted the sum of \$500, not from the sum found due by the commissioners, and from which they recommended its deduction as just, but from the amount of the certificate given by the Indians, which was ascertained to be a mistake. The committee are at a loss to know upon what ground this was done. The certificate of indebtedness by the Indians was very properly regarded as inconclusive against them; and as it turned out to be a mistake, upon investigation by the commissioners, a tribunal appointed alone by the United States, it was evidently inconclusive against the memorialist. They think, therefore, that, after the investigation by the commissioners, which was plenary and conclusive, the old certificate was worthless, either as an obligation against the Indians or as an admission by the memorialist. This is in conformity with the policy of the government towards the Indians. They are legally incompetent, by statute, and from their subordinate relation to the United States, to bind themselves by any contract. When the government countenances such contracts, it is done not from respect to their intrinsic obligation, but because they are ascertained to be fair and just, and because their enforcement discharges its duty as trustee between the Indians and their honest creditors.

A claim is also presented verbally by the memorialist, for interest. The committee cannot sanction this, in this case. The United States undertakes to disburse a fund of the Indians to pay an honest debt of the Indians. It is in the nature of a trust fund, which ought not to be burdened with a charge of interest where they have not been delinquent. The delay, and the resort to this mode of redress, has been the result alone of the act of an official of the United States. Whatever claim for interest may arise is, if just, a charge exclusively upon the Treasury of the United States. The committee, therefore, report the bill referred without amendment.