

1-17-1877

## Report : Petition of Kaskaskia, Peoria, Piankeshaw, and Wea Indians

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IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1877.—Ordered to be printed.

Mr. CLAYTON submitted the following

REPORT:

[To accompany bill S. 1142.]

*The Committee on Indian Affairs, to whom was referred the petition of the Kaskaskia, Peoria, Piankeshaw, and Wea tribes of Indians, asking for the repayment to them of certain sums of money claimed to have been wrongfully diverted from their trust-funds, have had the same under consideration, and submit the following report:*

Under the provisions of the treaty of 1854, over 200,000 acres of land in Kansas, belonging to these Indians, were conveyed to the United States in trust, to be sold, and the proceeds to be invested in good securities for their benefit, (Stats. 10, p. 1083.) By the terms of this treaty, these lands were to be sold as the public lands of the United States were sold, through the regularly established land-office, and the Indians were to have the entire proceeds, after deducting the expenses of the sale. The papers before your committee show that all of this land was sold between June 24, 1857, and July 13, 1857, with the exception of 1,070 acres; but it is also shown that, instead of being sold in the manner prescribed by the treaty, a special agent was appointed to conduct the sale. This agent sold the whole of these trust-lands, with the exception of the 1,070 acres, between the dates above mentioned.

The Indians claim that, between the time of appraisal and the time of sale, the lands had appreciated at least \$1 per acre, but instead of being offered at public sale to the highest bidder, thereby giving the Indians the full benefit of competition, squatters were permitted to purchase the lands in large tracts at the appraised value, to the great detriment and loss of the Indians. These losses, however, so sustained, they relinquished by the twenty-fifth article of the treaty of 1867, in consideration of the Government defending the title of the individual members of the tribe to the lands allotted to them, against the attempt of the State of Kansas to subject them to taxation.

They further complain that this departure from the treaty stipulations, as to the manner of conducting the sale, was the pretext for doing them great injustice in the payments of large sums of money to the special agent. Among the papers filed in the case by the Indians is a report of the Secretary of the Interior, made in pursuance of the twenty-fourth article of the treaty of 1867, and printed as House Ex. Doc. No. 101. This document purports to be a statement of the account of the Government with these Indians, under the treaties of 1854 and 1867, and down to its date, December 23, 1874. This, the Indians assert, is the first statement of accounts made to them under the treaties referred to, and it is upon the facts disclosed by this document that they base their claims for indemnity to their trust-fund for large sums unjustly and illegally taken therefrom.

The document shows that one R. S. Stevens was appointed special agent for the sale of their trust-lands on the 9th day of May, 1857, and that on the 15th of October, of the same year, he made his report of sales, reporting, as above stated, the sale of all these lands, with the exception of 1,070 acres. He was allowed compensation at the rate of \$8 per day and traveling expenses, amounting in all to \$2,458. Here, it would seem, the expense on his account should have ceased, as the remnants of unsold lands were turned over to the land-office, and became subject to private entry at \$1.25 per acre, and the record shows that they were sold in that way. Had this charge of Mr. Stevens been the only one allowed him, added to the \$2,500 allowed the register of the land-office for entering the sales upon his records, the Indians could have had no cause of complaint, as the cost of the sale, under the treaty, would have been \$6,933.72, being 2 per cent. upon 346,671.09, the total proceeds; the total expense up to this time being \$1,975.42 less than legal fees.

But the payment to Mr Stevens did not terminate with the conclusion of his duties, as between the 22d of April, 1858, and March 2, 1861, he is allowed other sums, amounting to \$5,118.75, which is charged as expense in looking after and managing these lands, making the total cost \$10,077.05, or \$5,119.75 above the actual cost of sale and \$3,143.33 more than the cost had the sale been conducted in strict conformity to the treaty and laws. The difference between the legal fees for the sale of the land and the amount charged, viz, \$3,143.33, with interest, the Indians claim should be returned to them, and the claim is believed to be just.

The second matter complained of are certain charges for disbursements to clerks, amounting to \$4,784.76. In Doc. 101, (above referred to,) it is claimed that these payments were for services in connection with the sales of the trust-lands of these Indians.

From statements made by the Department of the Interior in response to your committee, it would seem that there is no evidence to show that these sums were properly chargeable to these funds. The affidavits of the clerks themselves show that the services rendered were general in their character, and were not in connection with matters relating to these Indians. They were not permanent clerks, but were appointed temporarily, and no appropriation had been made for their payment. The payment of their salaries from these trust-funds was unwarranted, and the fund should be made good.

A third matter of complaint is that their funds have been improperly drawn upon for the payment of two attorneys in resisting the attempt of the State of Kansas to subject their lands to taxation. The Indians claim that under the act of May 28, 1830, and by the provisions of the treaties under which they were removed from east to west of the Mississippi, and also under the treaty of 1854, the Government undertook and guaranteed them the peaceful occupancy and possession of these lands against all comers, and that the attempt of the State of Kansas, by taxation, forfeiture, seizure, and sale, was an attempt to divert them of the possession of their lands, and was an act against which it was the duty of the Government to defend them at its own cost, and to secure which defense they surrendered valuable rights by the twenty-fifth article of the treaty of 1867.

In regard to one of these attorneys, it appears that the Indians voluntarily entered into a written contract with him, agreeing to pay him \$1,000, which was done, and it would seem that they were estopped by that act from any claim on that account. As to the other attorney, no evidence is found of any agreement between him and the Indians. If

employed at all, it was by the Government, and he should have been paid by the Government. The Indian fund should be indemnified the amount used in his payment.

In regard to the transportation of delegates visiting Washington for the purpose of negotiating the treaty of 1867, it is claimed that the agent who, in the name of the President, invited them to attend the convention at Washington assured them that all expenses would be paid by the Government. By the treaty, it is stipulated that the expenses of making the treaty shall be paid by the Government, and Congress subsequently appropriated a sum of money to pay said expenses. The Indians therefore ask that the sum taken from their funds for this purpose, amounting to \$519.18, may be refunded to them, with interest; and the claim appears to be just.

By the eleventh section of the Indian appropriation bill approved March 3, 1875, (Stats. 18, p. 456,) a credit is allowed to these Indians of \$5,712.71. This was for moneys derived from the sale of these trust-lands erroneously paid into the Treasury in 1857, and the allowance was based upon estimates made by the Interior Department. Upon this sum, the Indians claim interest from 1857, and the claim appears well founded under existing laws and treaty stipulations.

By a report from the Indian Commissioner of March 24, 1876, it appears that in carrying out the stipulations of the treaty of 1867 in relation to the sale of their ten sections of land, by some oversight, the sum of \$723.32 has been withheld from these Indians from 1869. Upon the sum so withheld they ask interest. By the same report, it is shown that by a like oversight the sum of \$1,840 was paid to parties not entitled thereto. This sum they properly ask, and should be restored to them. The petitioners base their claim to interest upon the seventh article of the treaty of 1854, (Stats. 10, p. 1084,) the second section of the act of July 12, 1862, (Stats. 12, p. 540,) and the twenty-fourth article of the treaty of 1867, (Stats. 15, p. 519.)

#### *Recapitulation.*

The amounts in which these people claim that their funds should be reimbursed is as follows:

Overpayment to Special Agent Stevens.....	\$3, 143 33
Interest on same from July 1, 1860.....	2, 514 67
Moneys improperly used in payment of clerks.....	4, 784 76
Interest on same, 16 years.....	3, 848 64
Amount paid second attorney.....	1, 666 66
Interest on same, 9 years.....	750 07
Amount paid transportation delegates.....	519 18
Interest on same, 9 years.....	223 54
Interest on sum, \$5,712.71, 18½ years.....	5, 284 15
Interest on sum, \$723.32, 7 years.....	216 96
Amount improperly paid to four persons.....	1, 810 00
Interest on same, 7 years.....	543 00
<hr/> Total.....	<hr/> 25, 504 96

In view of the foregoing statements, substantiated by the records of the Departments, your committee are of the opinion that these Indians have a claim upon the Government; but as the determination of the exact amount due would require a more detailed examination than your committee are able to give, they recommend the reference of the whole subject to the Secretary of the Interior, with authority to settle the same, and to restore to their funds all sums improperly taken therefrom; and for this purpose your committee report the accompanying bill, and recommend its passage.