

3-3-1880

## Report : Claim of A. Dart

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IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1880.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

R E P O R T :

*The Committee on Claims, to whom was referred the petition of Anson Dart, praying payment of a balance claimed to be due him for services rendered the United States Government, as Indian superintendent on the Pacific coast, have considered the same, and respectfully report :*

The case of the petitioner is stated very fully and strongly in a report made to the House of Representatives by Mr. Edwards, on the 24th day of February, 1860, which is as follows :

[H. Report No. 1, 36th Congress, 1st Session.]

Mr. EDWARDS, from the Committee on Indian Affairs, made the following report :

*The Committee on Indian Affairs, to whom was referred the petition of Anson Dart, late superintendent of Indian affairs in the Territory of Oregon, and also a bill entitled "A bill for the relief of Anson Dart," respectfully report :*

That the petitioner, in his said petition, asks provision for the payment of moneys due him for services rendered and expenses incurred while in the discharge of his duties connected with the Indian superintendency in the country now including the State of Oregon and the Territory of Washington, and presents the following specification of his claims :

1. He asks to be allowed the difference between his salary, as received by him as superintendent as aforesaid, and the salary established during his term of office for the superintendent of Indian affairs in California.
2. To be allowed the amount paid by him for an assistant clerk, for six months' service, to aid him in his negotiation of Indian treaties.
3. To be allowed for board of interpreters and of clerks employed by him in his official business.
4. For his traveling expenses in returning to Washington to settle his accounts after his office had terminated.
5. For interest on moneys paid by him for the use of the government from time of payment.

In support of his petition and of his several claims, as above stated, he has established before us the following facts :

That he was appointed superintendent as aforesaid in June, 1850, and served as such from July 1, 1850, until the 4th day of May, 1853, and during that period had under his superintendency the Indian affairs in all the country now included in the State of Oregon and the Territory of Washington, as set forth in his petition. That he was a faithful and efficient officer, and discharged his duties to the satisfaction of the government. That during his term of office peace and quiet were maintained amongst all the Indian tribes under his care, and between them and the white people around them, without any resort to force, and without any extraordinary expenditures.

That at the time of his appointment to the office, the salary, as fixed by law, was \$2,500 per annum; but that he accepted the appointment only upon the assurance from the Commissioner of Indian Affairs and from the Committee on Indian Affairs in the Senate that, in a bill then about to be reported, establishing the office and the pay of superintendent of Indian affairs in California, a provision would be included which should make the pay for each of the two superintendencies of equal amount.

That while he was absent, engaged in the duties of his office, a bill passed establishing the pay of the superintendent aforesaid in California at \$4,000 per annum, but which, through inadvertence or accident, when reported, did not include a change of the salary of the superintendent in Oregon, although such change had the sanction and approval of the Indian bureau at the time. Letters from the Hon. D. R. Atchison, then chairman of the Senate Committee on Indian Affairs; from the Hon. Luke Lea, Commissioner; and from Hon. Thomas Corwin, then Secretary of the Treasury, confirm these statements.

That, apart from the understanding and expectation aforesaid, the salary of twenty-five hundred dollars, in the then condition of the country, was an inadequate compensation for the services rendered and expenses incurred by Mr. Dart. It was in evidence before the committee that at that early period, in that remote Territory, the expenses of living were very large, no less so than in California, and that the duties of the superintendency were increased in 1851 by the reorganization of the Indian department, by which three treaty commissioners, at salaries of eight dollars each per day were dispensed with, and their duties transferred to the superintendent without providing for him any additional compensation, and that under this new law Mr. Dart negotiated not less than thirteen Indian treaties.

That he was also, as superintendent, the disbursing agent for six Indian agencies, and that no money committed to him has ever been lost to the government, or is unaccounted for.

The following further facts were established before the committee:

That by the transfer of the duties of the treaty commissioners as aforesaid, it became necessary that the superintendent should employ interpreters, and also additional clerk service. That he employed such interpreters and also an extra clerk for six months, at an expense of seven hundred and fifty dollars, for which last he has not yet been allowed. That by reason of the great expense of living, as before stated, and the high price of labor in that distant and then uncultivated and unsettled country, he could not procure the necessary services of interpreters without furnishing their board in addition to their stated pay. That this extra clerk service and increased expense of interpreters may be regarded as within the discretion allowed to the superintendent by the terms of his instructions from the Department of the Interior on his entering upon his office—instructions somewhat general and indefinite, but referring much to his discretion and judgment when he should arrive at his post and should ascertain the necessities of his position.

From a consideration of the foregoing facts, the committee are of the opinion that the petitioner has a just and equitable claim on the government for the difference between the salary he has received and the salary which was fixed for the superintendent of Indian affairs in California by the act of March 3, 1852, and for any moneys paid by him, and expenses incurred for extra clerk hire, and for board of interpreters employed by him as superintendent as aforesaid; and are of opinion that the proper accounting officer of the Treasury should be authorized to settle with him upon principles of equity, so as to indemnify him fully for such moneys paid and expenses incurred, and to make up to him the deficiency of his compensation as aforesaid.

And for this purpose they report the accompanying bill for his relief.

Conceding the statements of this report to be true we cannot recommend granting the prayer of the petitioner.

We cannot treat the assurance by an executive officer that a salary shall be raised as equivalent to an act of Congress raising it.

We cannot undertake to correct the mistakes of past generations and compensate every public officer whose salary was inadequate or disproportionate to that of others performing like services.

Besides, June 15, 1860, on the report of Mr. Edwards, a bill was passed allowing to the petitioner an increase of \$1,500 per annum for his services, and directing the Secretary of the Treasury to settle with him on principles of equity and justice, so as to indemnify him for his expenses. February 12, 1879, an adverse report on this petition was made by Mr. Oglesby, from the Committee on Indian Affairs, and agreed to by the Senate.

We recommend that the petition be disallowed.