

2-21-1893

Contracts with Indian Tribes

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. 1328, 52nd Cong., 2nd Sess. (1893)

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 21, 1893.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolution to print the copies of contracts made with Indian tribes or Indians since January 1, 1889, by which compensation was agreed to be paid to attorneys, agents, or other persons for obtaining the recognition, allowance, or payment of claims in favor of such tribes or Indians against the United States, and other papers furnished to the Senate by the Secretary of the Interior, January 5, 1893, in response to the Senate resolution of June 1, 1892.]

The Committee on Printing, to whom was referred the above resolution, having considered the same, make the following report:

The manuscript containing the correspondence and contracts above referred to embraces all correspondence and other papers relating to contracts by Indians and Indian tribes filed in the office of Indian Affairs since January 1, 1889, and that were on file December 15, 1892. There are forty-nine exhibits, giving the text of contracts entered into with Indians and Indian tribes, together with all correspondence relating thereto. Under Senate resolution of June 1, 1892, these contracts and the correspondence were copied, taking several clerks a considerable portion of the summer and fall of 1892 to accomplish the work. Great pains were taken in the work, in the hope that the whole matter would be printed for future reference and use. The Commissioner of Indian Affairs believes that it would be economy to have the entire copy printed, for the reason that it would save time and labor in his office that would cost the Government more than the cost of the printing.

In addition to the contracts and correspondence is given decisions of the Indian Office and the Department covering almost every question of law that could arise in connection with the consideration of contracts between Indian tribes and Indians and attorneys under section 2103 of the Revised Statutes of 1878.

In speaking of the value of the report and accompanying papers when printed, the Commissioner of Indian Affairs, in a letter addressed to Senator H. L. Dawes, under date January 17, 1893, says:

If the correspondence relative to contracts, above referred to, were printed it would afford this office a very valuable book of reference for its guidance in considering questions that may hereafter arise in connection with the approval of contracts.

The cost of printing and binding the usual number of the contracts and correspondence and decisions as above will be \$2,435, as per the estimate of the Public Printer.

The letter of the Commissioner of Indian Affairs, hereto attached, which summarizes the contracts referred to above, is submitted and made a part of this report.

The committee is of the opinion that, for the public information and for the convenience of the public business of the Indian Office, the contracts, correspondence, and decisions should be printed, and therefore report the resolution back with the recommendation that it do pass.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., December 15, 1892.

SIR: I have the honor to acknowledge the receipt by Department reference for report of a resolution of the Senate adopted June 1, 1892, as follows:

Resolved, That the Secretary of the Interior be directed to furnish to the Senate a statement of all contracts within the possession or knowledge of his Department made since January 1, 1889, with Indian tribes or Indians by which compensation was agreed to be paid to attorneys, agents, or other persons for obtaining the recognition, allowance, or payment of claims in favor of such tribes or Indians against the United States, including information concerning the action of the Department on such contracts, and whether any portion of any moneys due to Indians has been withheld for the purpose of paying any such compensation; and if so, whether for such moneys withheld the Indians have been required to give receipts in full, and whether such moneys have been withheld under due authority of law."

In reply, I have the honor to transmit, herewith, exhibits from 1 to 49, both inclusive, being a copy of all correspondence and other papers relating to contracts by Indians and Indian tribes that have been filed in this office since January 1, 1889, and that are now on file and of record in this office. Some of the papers relating to these contracts have in the course of business been transmitted to the Department and to the Second Auditor of the Treasury where they are now on file.

Exhibit No. 1 is a copy of the correspondence relating to a contract between the late Hon. E. John Ellis and the Old Settler or Western Cherokees. This contract, as will be seen from the papers submitted, is now pending consideration in the Department of certain questions of law submitted in a report from this office of November 1, 1892.

Exhibit No. 2 is a copy of the correspondence relating to a contract entered into November 4, 1889, between Messrs. Jones & Voorhees, attorneys of this city, and E. C. Boudinot, late an attorney of Fort Smith, Ark., and the Old Settler or Western Cherokee Indians. This contract was approved. No fees have been paid under it, the suit brought by Messrs. Jones & Voorhees not having yet been determined, and nothing has been paid to the Indians on account of the claim affected by this contract.

Exhibit No. 3 is a copy of the correspondence relating to a contract between H. E. Paine and the Chickasaw Nation of Indians. This contract, which was for the employment of Mr. Paine to prosecute a claim against the United States for an additional allowance to the Chickasaw Nation of the sum of \$56,021.49, which was erroneously paid to one William M. Gwinn out of the trust funds of the said Chickasaw Nation, was approved, and the claim was allowed by Congress and Mr. Paine was paid a fee of 10 per cent on the sum claimed, which amounted to \$5,602.14. This fee was paid April 10, 1891.

Exhibit No. 4 is a copy of the correspondence relating to a contract between John Mullan and the Cœur d'Alene Indians. This contract was approved. It provided for the employment of Mr. Mullan to urge upon Congress the desirability of the ratification of an agreement previously entered into with the Cœur d'Alene Indians at a compensation of 1 per cent of the amount involved in the agreement. The agreement was ratified, and Mr. Mullan was paid on April 23, 1891, the sum of \$6,500, being 1 per cent of \$650,000, which was involved in the agreement.

Exhibit No. 5 is a copy of the correspondence relating to a contract between Messrs. Garland and May and the Old Settler or Western Cherokees. This contract, which was for the employment of the gentlemen named to assist in the prosecution of the claim of the Old Settler or Western Cherokees before the Supreme Court of the United States, was approved. This claim has not been finally determined and nothing has been allowed to the Indians, so no fee has been paid thereunder.

Exhibit No. 6 is a copy of the correspondence relating to a contract between the Quapaw Indians and W. W. Martin. This contract was for the employment of Mr. Martin to prosecute certain claims of the Quapaw Indians against the United States. One of the claims authorized to be prosecuted was prosecuted to a successful termination and the sum of \$39,575.31 was appropriated March 3, 1891, to pay the same. The contract was approved for a fee of 7 per cent, but no fee was paid thereunder.

by this office, but the treasurer of the Quapaw tribe advised this office that he had, under the direction of the tribe, paid Mr. Martin \$2,770.27, being 7 per cent of the amount secured to the Indians.

Exhibit No. 7 is a copy of the correspondence relating to contracts between Messrs. Jones & Voorhees and the Kaw Indians. One of these contracts anticipated the employment of Messrs. Jones & Voorhees to render professional services in connection with the claim of the Kaw Indians with relation to the diminution of its trust funds in the hands of the United States and for interest on the whole amount to which said Indians were entitled. This contract was approved and the sum of \$29,379.90 was secured by the attorneys for the Indians, and on July 7, 1891, they were paid \$2,937.99, the fee provided for in the contract, 10 per cent of the amount recovered. Another of these contracts was for the prosecution of a claim against the Osage Nation for such sum as might be found justly due to the Kaws on account of the children of that nation attending the schools of said Kaws and for the professional services of the physician at the Kaw Agency, and also to recover any and all sums of money paid on scrip known as Kaw scrip improperly issued. This contract was also approved, but no fee has been paid thereunder. The other contract, which anticipated the prosecution of a claim against the United States for money alleged to have been improperly deducted as the expense attending the sale of lands belonging to the Kaw Indians disposed of under treaty, has not been approved.

Exhibit No. 8 is a copy of the correspondence relating to a contract between Charles Journeycake, chief of the Delaware Indians located in the Cherokee Nation, and the said Delaware Indians, authorizing him to prosecute certain claims against the United States growing out of treaty stipulations and money transactions between said Indians and the said United States. This contract was approved, and on March 25, 1891, the sum of \$10,905.30 was paid Mr. Journeycake as his fee upon an appropriation of \$72,702 recovered for the Indians.

Exhibit No. 9 is a copy of the correspondence relating to a contract between Messrs. Jones & Voorhees and the Osage Nation of Indians. The purpose for which this contract was made was to collect from the United States any and all sums of money which have been improperly deducted as expenses attending the sale of lands belonging to said nation disposed of under treaty stipulations. This contract was not approved and no fee was therefore paid under it.

Exhibit No. 10 is a copy of the correspondence relating to a contract between certain Citizen Pottawatomie Indians in the Territory of Oklahoma and A. F. Navarre and J. H. McGowan. This contract anticipated the employment first of Mr. Navarre as attorney in fact for the Indians to prosecute claims against the United States on behalf of said Indians, and, second, the employment of Mr. McGowan to render professional services in connection with such prosecution. Appropriations were secured by Messrs. Navarre and McGowan aggregating the sum of \$130,997.95 and on August 7, 1891, Mr. Navarre was paid 7½ per cent of certain parts of this sum, which aggregated \$6,208.37, and on August 15, 1891, Mr. McGowan was paid \$4,138.91, being 5 per cent of the same sums, the amount for which his contract was approved.

Exhibit No. 11 is a copy of the correspondence relating to a contract between the Cheyenne and Arapaho tribes of Indians in Oklahoma and Samuel J. Crawford, of Topeka, Kans.; M. G. Reynolds, of St. Louis, Mo.; John D. Miles, of Lawrence, Kans., and D. B. Dyer, of Kansas City, Mo. This contract was for the employment of the gentlemen named, to render professional services in connection with the claim of the Cheyenne and Arapaho Indians to rights in certain reservations supposed by them to be denied by the United States. The Indians were represented by the attorneys in the negotiations which resulted in the cession of the rights, title and interest of the said tribes in and to all lands in Oklahoma to the United States. The consideration in money was \$1,500,000. Of this amount, \$1,250,000 was estimated to have been paid for the interests of said tribes in the lands, the very rights to which the contract related. The fee provided for in the contract was 8 per cent of all sums secured to the Indians on account of their claim, amounting to \$500,000, or less; 4 per cent on all sums over \$500,000 and less than \$1,000,000; and 3 per cent on all sums recovered over \$1,000,000. Estimating the fee these attorneys were entitled to on the sum of \$1,250,000, in accordance with the provisions of the contract, the following result is had:

\$500,000 at 8 per cent.....	\$40,000
\$500,000 at 4 per cent.....	20,000
\$250,000 at 3 per cent.....	7,500
Total.....	67,500

This fee was paid the attorneys September 9, 1891.

Exhibit No. 12 is a copy of the correspondence relating to a contract between William Greiffenstein and the Kickapoo tribe of Indians in the Territory of Oklahoma. This contract was not approved.

Exhibit No. 13 is a copy of the correspondence relating to contracts between George S. Chase and Big Jim's band of Absentee Shawnee Indians. These contracts anticipated, first, the prosecution of the claim against the United States on behalf of the Indians party thereto for \$17,215 in property alleged to have been lost by the Indians when they were forcibly removed from the Kickapoo Reservation in 1886, and, second, the prosecution of the claim of said Indians against the United States on account of losses sustained by the Indians during the late civil war. The claim for damage for removal from the Kickapoo Reservation was prosecuted to a successful termination and Mr. Chase was, on April 20, 1891, paid a fee of \$860.75, the same being 5 per cent. of the amount recovered to the Indians under his contract. No fee has been paid under the other contract.

Exhibit No. 14 is a copy of the correspondence relating to a contract between H. E. Paine and the Chickasaw Nation, anticipating the prosecution by Mr. Paine as counsel of the claim of the Choctaw and Chickasaw nations for additional compensation on account of the rights and interests remaining in those nations to the territory west of the ninety-eighth degree of west longitude, and known as the Choctaw and Chickasaw leased district. This contract was not approved.

Exhibit No. 15 is a copy of the correspondence relating to a contract between the late Hon. John Ambler Smith and A. H. Skidmore and the Western Miami tribe of Indians. This contract was not approved and no fee has therefore been paid thereunder.

Exhibit No. 16 is a copy of the correspondence relative to a contract between Messrs. Gyer & North and the Eastern Shawnee tribe of Indians of the Quapaw Agency. This contract was not approved for reasons shown in the correspondence, and no services were rendered thereon, and consequently no fee was paid.

Exhibit No. 17 is a copy of the correspondence and other papers relating to a power of attorney between A. F. Navarre and the Citizen band of Pottawatomie Indians and a contract between the said Navarre as attorney in fact for the said Citizen band of Pottawatomie Indians and George S. Chase, stipulating for the employment of Messrs. Navarre and Chase to render professional services in connection with the claim of said Pottawatomie Indians to a greater interest in a 30-mile square tract of land in the Territory of Oklahoma than was admitted by the United States. The contract was approved and services were rendered both by Mr. Navarre and Mr. Chase in connection with the negotiations resulting in the cession of all the rights of the Indians named in the land to the United States for certain considerations, the money consideration being \$160,000. The fee allowed Mr. Chase under his contract was 5 per cent. of the amount recovered to the Indians and to Mr. Navarre $2\frac{1}{2}$ per cent was allowed. On account of certain deductions that were made in accordance with the agreement from the \$160,000 agreed to be paid them, it was found that only \$146,018.42 was to be paid to the Indians. Accordingly Mr. Chase was paid on October 19, 1891, a fee of \$7,300.92, and on December 26, 1891, Mr. Navarre was paid a fee of \$3,650.46, being the amount they were entitled to receive under the contract.

Exhibit No. 18 is a copy of the correspondence relating to a contract between Messrs. Horner, Perry & Hollowell and the Confederate Wea, Peoria, Kaskaskia, and Piankeshaw Indians, in the Indian Territory, stipulating for the employment of the gentlemen named to render professional services in connection with certain claims of the Indians. This contract was not approved, and no services being rendered, no fee was paid thereunder.

Exhibit No. 19 is a copy of the correspondence relating to the renewal of a contract between J. H. Embry and the Western Miami tribe of Indians in the Indian Territory. Mr. Embry had been rendering services for these Indians in connection with the prosecution of a claim against the United States in the Court of Claims under a former contract and the renewal was approved. Under this he recovered the sum of \$42,678.24 for the Indians, and on March 27, 1891, he was paid a fee of \$8,535.62, being 20 per cent of the amount recovered for the Indians.

Exhibit No. 20 is a copy of the correspondence relating to a contract between Hon. Phil. B. Thompson and the Menomonee tribe of Indians, of Wisconsin. This contract was not approved for reasons set forth in the correspondence.

Exhibit No. 21 is a copy of the correspondence relating to a contract between the Chippewa Indians of Lake Superior and Merrill & Brainard. This contract was not approved.

Exhibit No. 22 is a copy of the correspondence relating to a contract between J. H. McGowan and the Stockbridge tribe of Indians. It was not approved for reasons set forth in the correspondence.

Exhibit No. 23 is a copy of the correspondence relating to a contract between Lucy J. Pruner and George S. Chase. This contract was for the prosecution of a claim against the United States of Lucy J. Pruner, as the heir of Black Beaver, on account of certain losses sustained by him during the war. This contract was approved, but no fee has been paid thereunder.

Exhibit No. 24 is a copy of the correspondence relating to a contract between the Wichita and affiliated bands of Indians in Oklahoma and Orrick & Myers, and between the Kiowa, Comanche, and Apache tribes and the said Orrick & Myers. These contracts were not approved, and on June 20, 1890, at the request of the attorneys, they were returned to them disapproved. No copy of the contracts was retained in this office, and this correspondence is without any copy thereof.

Exhibit No. 25 is a copy of the correspondence relating to a contract between A. F. Navarre and the Prairie band of Pottawatomie Indians. Much of the correspondence relating to this contract is on file in the Second Auditor's Office, and no copy thereof is transmitted.

Exhibit No. 26 is a copy of the correspondence relating to a contract between the Sac and Fox Indians of the Missouri and John Schilling. This contract was not approved.

Exhibit No. 27 is a copy of the correspondence relating to a contract between John T. Hill and the Iowa tribe of Indians in Oklahoma. This contract was not approved for reasons set forth in the correspondence.

Exhibit No. 28 is a copy of the correspondence relating to a contract between the the Cherokee Nation and W. A. Phillips. This contract was for the employment of Mr. Phillips to render professional services in connection with the prosecution of the claim of the Cherokee Nation against the United States for a sum of \$19,843.82, being the proceeds of the sale of the Cherokee Strip in Kansas not accounted for to the nation, and other claims of said nation. Mr. Phillips secured an appropriation for the sum named, and on April 28, 1891, was paid a fee of \$1,984.34, being 10 per cent of the amount appropriated.

Exhibit No. 29 is a copy of the correspondence relating to contracts between W. W. Martin, assignee of B. W. Perkins, and the Osage Nation of Indians, and between H. E. Paine and the Chickasaw Nation of Indians. The Osage contract was made with Mr. Perkins, and stipulated for his employment to render professional services to the Indians in defense of depredation claims and in such other matters as he might be required to attend to. This contract was approved and subsequently assigned to Mr. Martin. The fee allowed was \$3,000 per annum, and fees have been paid thereunder as follows: To B. W. Perkins, for services to January, 1892, paid April 14, 1892, \$250; to W. W. Martin, for services to April 1, 1892, paid May 17, 1892, \$750; to same for services to July 1, 1892, paid August 2, 1892, \$750; to same for services to October 1, 1892, paid October 11, 1892, \$750; in all to October 1, 1892, \$2,500.

The contract between Mr. Paine and the Chickasaw Nation was also approved. It was for the employment of Mr. Paine for a period of two years as attorney for the Chickasaw Nation at a compensation of \$2,500 per annum. The fee under this contract, if paid at all, has been paid by the Chickasaw Nation.

Exhibit No. 30 is a copy of the correspondence relating to a contract between the Prairie band of Pottawatomie Indians and W. H. Smith. This contract stipulated for the employment of Mr. Smith to defend the suit brought by the Citizen band of Pottawatomie Indians against the Prairie band in the Court of Claims. The contract was approved, but the services provided for in said contract have not as yet been rendered and no fee has been paid.

Exhibit No. 31 is a copy of the correspondence relating to contracts between the Citizen band of Pottawatomie Indians and J. E. Clardy and H. C. Linn. The contract between the Indians and Clardy which provided for his employment to institute suit in the Court of Claims against the United States and the Prairie band of Pottawatomie Indians was submitted to this office in August, 1891, for approval. This contract was subsequently approved, and after its approval Mr. Linn filed a contract stipulating for the same services and the revocation by the Indians of Mr. Clardy's power. Mr. Linn's contract, however, was not approved and no fee has been paid under Mr. Clardy's contract.

Exhibit No. 32 is a copy of correspondence relating to a contract between W. G. Raines and the Menominee tribe of Indians. This contract was not approved.

Exhibit No. 33 is a copy of correspondence relating to a contract between Agnes Beth and Bridget Lund and H. M. Meriwether. This contract was approved, but no fee has been paid thereunder, the claim not having yet been settled.

Exhibit No. 34 is a copy of correspondence relating to the renewal of a contract between the Old Settler Cherokees and W. S. Peabody. This renewal was approved, but no fee has been paid under the contract.

Exhibit No. 35 is a copy of correspondence relating to a contract between the Chase and Slater Law and Claims Company and Yellow Eagle, a Sioux Indian of the Pine Ridge Agency. This contract was not approved for reasons set forth in the correspondence.

Exhibit No. 36 is a copy of the correspondence relating to contracts between B. W. Perkins and J. H. McGowan and the Stockbridge and Seneca tribes of New York Indians. This contract has not been approved.

Exhibit No. 37 is a copy of the correspondence relating to a contract between Eaton, Pollock and Love and the Otoe and Missouri tribes of Indians. This contract was not approved.

Exhibit No. 38 is a copy of the correspondence relating to a contract between Julia Richard, heir of Joseph Richard, and the Chase and Slater Law and Claims Company. This contract is pending consideration of certain questions of law submitted to the Department with office report of August 29, 1892.

Exhibit No. 39 is a copy of the correspondence relating to contracts between George S. Chase and the Pottawatomie Indians of Michigan and Indiana. These contracts were not approved.

Exhibit No. 40 is a copy of the correspondence relating to a contract between John Mullan and the Spokane tribe of Indians, of Washington. This contract was approved, and on October 8, 1892, Mr. Mullan was paid a fee for services rendered thereunder of \$2,850, the sum to which he was entitled under his contract.

Exhibit No. 41 is a copy of the correspondence relating to contracts between certain bands of Sioux Indians and F. M. Goodykoontz. Three contracts, being with the Santee, Yankton, and Crow Creek bands of Sioux Indians, providing in the aggregate for a fee of \$2,600 per annum, have been approved. On account of the fee accruing thereunder Mr. Goodykoontz was, on September 15, 1892, paid the sum of \$107.61.

Exhibit No. 42 is a copy of the correspondence relating to a contract between Nancy Markham, administratrix, by J. M. Bryan, attorney in fact, and Messrs. Jones, Voorhees and Manning. This contract was approved, but no fee has been paid thereunder.

Exhibit No. 43 is a copy of the correspondence relating to a contract between J. M. Bryan and Sam C. Dunham. This contract was not approved for reasons set out in the correspondence.

Exhibit No. 44 is a copy of the correspondence relating to a contract between the Cherokee Nation and W. A. Phillips, stipulating for the employment of Mr. Phillips to render professional services in connection with certain claims of the Cherokee Nation. The contract was not approved.

Exhibit No. 45 is a copy of the correspondence relating to a contract between the Mississippi band of Chippewa Indians and Dudley and Michener. This contract was not approved, and it was returned to Messrs. Dudley and Michener, no copy being retained in this office.

Exhibit No. 46 is a copy of the correspondence relating to a contract between the Turtle Mountain band of Chippewa Indians and J. B. Bottineau. This contract was returned to Mr. Bottineau without approval, no copy being retained in this office.

Exhibit No. 47 is a copy of the correspondence relating to the assignment of part of the contract between the Shawnee Indians and Denver and Brownell. The correspondence in this matter will show the present status of the question.

Exhibit No. 48 is a copy of the correspondence relating to a contract between W. W. Martin and the Western Miami tribe of Indians. This contract is now pending consideration in this office.

Exhibit No. 49 is a copy of the correspondence relative to a contract between Archibald Young and the Nehalem band of Tillamook tribe of Indians. This contract is pending consideration in the Department on a question of law submitted in office report of November 14, 1892.

Exhibit No. 50 is a copy of the correspondence relative to a contract between F. T. Ledergerber and the Menomonee tribe of Indians. In the arrangement of the exhibits to this report according to their respective dates this correspondence should have been among the first, but when the arrangement was made it was temporarily misplaced, and is therefore inserted here in order to avoid the delay a rearrangement of the exhibits and of this report would entail. Other correspondence relative to this contract is on file in the Department, where it was transmitted with my report of February 17, 1890.

Exhibit No. 51 is a copy of the correspondence relative to the contracts between Gen. J. B. Sanborn and certain Sisseton and Walpeton Sioux, and to the matter of Mr. Sanborn's claim thereunder for 10 per cent of a payment recently made to those Indians, per capita. This correspondence does not come within the call of the Senate, but it is transmitted herewith in order that the position of the Department with respect to the matter might be shown.

Exhibit No. 52 consists of extracts from my annual reports of 1890 and 1892, and a copy of a special report relative to the general question of Indian contracts with attorneys, and to the question of consenting to the employment by the Indians of special counsel to defend depredation claims against them.

In reply to the inquiry of the Senate as to "whether any portion of any moneys due to Indians have been withheld for the purpose of paying any such compensation, and, if so, whether for such moneys withheld the Indians have been required to give

receipt in full," I have the honor to say that all fees paid by this office to attorneys under contracts with Indians are deducted from the funds of the Indians applicable to the payment of such fees and, as shown above, deductions have been made in the cases of contracts between the Western Miamis and James Embry, the Absentee Shawnees and George S. Chase, the Chickasaw Nation and Halbert E. Paine, the Delawares in the Cherokee Nation and Charles Journeycake, the Kaw Indians and Jones & Voorhees, the Citizen band of Pottawatomies and Anthony F. Navarre, J. H. McGowan, and George S. Chase, and the Prairie band of Pottawatomies and Anthony F. Navarre, the Cheyennes and Arrapahoes and Samuel J. Crawford and others, the Cœur d'Alene Indians and John Mullan, the Spokane tribe of Indians and John Mullan, and the Cherokee Nation and W. A. Phillips.

It is always the rule to require the Indian receiving money from the United States to receipt for exactly the amount that he is paid. Where a per capita payment is to be made out of any funds chargeable with the payment of a fee, the fee is first deducted and the per capita payment is based upon the remainder.

With reference to the inquiry of the Senate as to "whether such moneys have been withheld under due authority of law," I have the honor to invite attention to the provisions of sections 2103 and 2104 of the Revised Statutes. Section 2103 prescribes the formalities necessary to be observed in all contracts between Indians and attorneys in order to give the contract validity, and the Secretary of the Interior and the Commissioner of Indian Affairs are given authority to approve such contracts.

Section 2104 prescribes the manner in which the fees accruing under contracts between Indians and attorneys shall be paid. It is as follows:

"No money shall be paid to any agent or attorney by an officer of the United States under such contract or agreement, other than the fees due him for services rendered thereunder; but the moneys due the tribe, Indian, or Indians, as the case may be, shall be paid by the United States through its own officers or agents, to the party or parties entitled thereto; and no money or thing shall be paid to any person for services under such contract or agreement until such person shall have first filed with the Commissioner of Indian Affairs a sworn statement showing each particular act of service under the contract, giving date and fact in detail, and the Secretary of the Interior and Commissioner of Indian Affairs shall determine therefrom whether, in their judgment, such contract or agreement has been complied with or fulfilled; if so, the same may be paid, and if not, it shall be paid in proportion to the services rendered under the contract."

This section seems to me to be ample authority of law for the payment out of the funds of the Indians applicable thereto, of any fee contracted by them to attorneys rendering services in their behalf, under contracts made and approved under section 2103.

In concluding this report, I desire to say that the delay in answering the resolution of the Senate has been occasioned by the volume of correspondence that it was necessary to have copied and arranged, in order to give full response thereto, and to the limited force of employes in this office.

The Senate resolution is herewith returned to the files of the Department.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.