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Report : Mr. Fitch

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IN THE SENATE OF THE UNITED STATES.

APRIL 14, 1858.—Ordered to be printed.

Mr. FITCH made the following

REPORT.

[To accompany Bill S. 262.]

The Committee on Indian Affairs, to whom was referred the papers in the matter of the application of Daniel S. Ryan and Benjamin C. Wiley, administrators of R. D. Rowland, deceased, and of James M. Crook, to have refunded to them the amount paid for certain lands bought of the United States, of which the purchasers have been legally deprived by an Indian claim, report :

By the treaty of 24th March, 1832, with the Creeks, twenty sections of land were to be selected under direction of the President for the orphans of that tribe. The land was to be subdivided and retained by them, or sold for their benefit as the President might direct. The lands were selected in Alabama, subdivided, sold, and proceeds funded by the United States in trust for benefit of the Creek orphan fund in 5, 5½ and 6 per cent. stocks. Cureton, Smith and Heifner were joint purchasers of one-half of the southeast half of section 2, township 14, range 8 east, for two thousand two hundred and sixty dollars, (\$2,260;) and Richard D. Rowland, purchaser of the other half of same half section, for three thousand two hundred dollars, (\$3,200.) The sales were approved by the President, and patents issued to vendees. Sally Ladigu, a Creek, living upon this half section, claimed it under another provision of the same treaty.

Her claim was rejected by the United States locating agent when he selected the lands, but was subsequently prosecuted in the courts, and after a tedious litigation, during which the case reached the United States Supreme Court, the final decision was in her favor, and the original purchasers from the United States and those holding under them were rejected. The parties in interest now claim that the government should refund the purchase money, with 8 per cent. (Alabama) interest, and indemnify them for all expenses of litigation. As government received the money as proceeds of sale of land to which the courts have decided it had no title and could convey none, the claim for re-payment of principal is indisputable; and as the money thus received was and is invested in either 5, 5½ or 6 per cent. stocks, upon which interest has been regularly received, the committee think it will be but just to pay claimants 5½ per cent.

interest from time of such investment. They can see no good reason why government should allow a higher rate of interest, nor why it should be held responsible for expenses incurred in defending title, as it gives no warranty, and has had no interest in the land, but has acted only in good faith as trustee of the Creeks' orphan fund.

The committee coincide with the Commissioner of Indian Affairs that it will be better to retain the orphan fund in the security of its present investment than to selling of its stocks to meet this claim. If any of the stocks are sold for such purposes, a subsequent appropriation will be necessary to supply the deficiency; they, therefore, report a bill for a direct appropriation from the treasury for the satisfaction of the claim. The parties claiming can probably satisfactorily establish their legal right as representatives of the original purchasers; but as such right is not fully established by the papers before the committee, the bill directs payment to such representatives when ascertained.