

2-15-1858

Report : Mr. Sebastian

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1858.—Ordered to be printed.

Mr. SEBASTIAN made the following

REPORT.

[To accompany Bill S. 136.]

The Committee on Indian Affairs, to whom were referred the petition and papers of John B. Hand, of Mississippi, make the following report:

Mr. Hand became the purchaser of certain Indian reservations under the treaty of Dancing Rabbit creek, and paid to the Indians, according to contract, fifty cents per acre for the land so purchased. Afterwards, the President of the United States (General Jackson) directed the patents to be withheld until said Hand should pay an additional sum of seventy-five cents per acre. This Hand agreed to do. In December, 1838, A. A. Kincannon, esq., was appointed an agent by the President to investigate, adjust, and settle the matter in dispute, growing out of the purchase of these reservations. To this agent Hand paid the additional seventy-five cents per acre, and Kincannon reported the payment to the department. He failed, however, to account for the money, and subsequently died insolvent. The department refused to acknowledge the validity of the payment, and required Hand again to pay seventy-five cents per acre for the land, which he did, protesting that it was unjust. The official correspondence exhibits the facts that Kincannon was the agent of the government; that he received the money, a part on the 6th of February, 1840, and the balance on the 22d February, 1841, and that no objection was made to its reception until March, 1843. Then, for the first time, the Secretary of War notified the agent that the currency in which the payment was made had depreciated, and that the government would not receive it. The committee think the last payment was improperly demanded, and report a bill for the relief of the petitioner.

An official letter from the Commissioner of Indian Affairs is appended to this report, as follows:

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, February 11, 1858.

SIR: In respect to the claim of the heirs of John B. Hand, deceased, to have refunded to them the sum of one thousand three hundred and

forty dollars, (\$1,340,) that being the aggregate amount paid on the 6th of February, 1840, and the 22d of February, 1841, to Colonel Andrew A. Kincannon, commissioner appointed to certify Choctaw contracts for the sale of their reserves under the treaty of 1830, and which money was never paid into this office by Colonel Kincannon, I have the honor, in compliance with your request, to state as follows:

I find, upon examination of the papers in the cases of "Louie," "Kashanohla," and "Nahomastubbee" reserves, under the nineteenth article, and "Hop-can-che-hubbee," under the supplement to the above mentioned treaty, that Colonel Kincannon acknowledges, in his report and letters, the receipt of the following sums from John B. Hand, the then claimant by purchase from the original grantees, being the amounts necessary, in addition to the sums satisfactorily shown to have been paid, to make up the minimum price of \$1 25 per acre, viz:

| | |
|---|--------------|
| 1. For Louie's reserve, in addition to the \$240 dollars proved to have been paid..... | \$160 |
| 2. For Kashanohla's reserve, in addition to the \$100 proved to have been paid..... | 100 |
| 3. For Nahomastubbee's reserve, in addition to the \$80 proved to have been paid..... | 120 |
| 4. For Hop-can-che-hubbee's reserve, in addition to the \$640 proved to have been paid..... | 960 |
| Total..... | <u>1,340</u> |

This money having been paid in a depreciated currency, the Secretary of War decided, in March, 1843, that, as a condition precedent to the approval of the deeds, the purchasers, or their assignees, should pay into this office, in specie or its equivalent, the several sums above named, as required by Colonel Kincannon under the decision of President Jackson that Choctaw Indian reserves should not be sold below the minimum price of \$1 25 per acre.

To enable the purchasers to comply with this requirement, Colonel Kincannon was requested to return the money deposited with him to the depositors; and, on the 10th of March, 1843, he acknowledged the receipt of the letter communicating the Secretary's decision, promising to attend to the matter without unnecessary delay; but notwithstanding this promise, nothing further was ever heard from him on the subject, and it is now understood that he died several years ago entirely insolvent.

The heirs of John B. Hand, therefore, in compliance with the requirements of the department, paid the money into this office, through their attorney, John J. McRae, esq., and the deeds were approved by the President on the 1st of March, 1845, as follows:

The sale of the NE and NW $\frac{1}{4}$ of section 17, 3, 15 east, being the land reserved to Louie, to James B. Trotter.

The sale of Kashanohla's reserve (the SE $\frac{1}{4}$ of section 6, 3, 15 east,) to Joseph B. Earle and — Thompson; and

The sale of Nahomastubbee's reserve (the SW $\frac{1}{4}$ of section 8, 3, 15 east,) to Joseph Kemp—the patents, in each case, to issue in the name

or names of the original purchasers, in trust for the legal representatives of John B. Hand, deceased.

The sale of Hop-can-che-hubbee's reserve, which was located on sections 17 and 18, and lots 1 and 2 of section 20, in township 3, of range 15 east, to Joseph B. Earle, was also approved on the same day, with the proviso that the patent should issue to Earle in trust for the use of the legal representatives of John B. Hand and Colonel Alexander Trotter, according to their respective legal rights under conveyances from Earle.

The petition of James M. Hand, and the accompanying papers, are herewith returned.

Very respectfully, your obedient servant,

CHARLES E. MIX,
Acting Commissioner.

HON. A. G. BROWN,
Committee on Indian Affairs, U. S. Senate.