

2-24-1858

## Report : Mr. Clarke

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1858.—Ordered to be printed.

Mr. CLARKE made the following

REPORT.

[To accompany Bill S. 166.]

*The Committee on Claims, to whom was referred the memorial of Eleazer Williams, report :*

In this case the memorialist claims pay for services rendered by him to the United States, in procuring lands from the Menomonee and Winnebago Indians, in the then Territory of Wisconsin, for the use of the New York and St. Regis tribes. These services were rendered at various times from 1819 to 1832, and resulted in the treaties of 1827, 1831 and 1832, between the United States and said tribes.

The history of embassies sent by the New York Indians to the Green Bay country, in Wisconsin, and of the negotiations at Butte des Mort in 1827, and of those leading to the treaties with the Menomonees and Winnebagoes in 1831-'32, extending from 1829 to the ratification of the treaty of October, 1832, with the Menomonees, contains evidence of the connexion of Mr. Williams with the interests and transactions of the New York tribes. He was reputed to be a half-breed of the St. Regis tribe, and was sent by them, and recognized as their agent, and as such signed various articles, treaties and memorials.

In a letter to the Hon. John H. Eaton, then Secretary of War, dated December 5, 1830, General Cass, in recommending Mr. Williams as a sub-agent at Fox river, says: "He rendered essential service to the United States during the late war, in which he was actively engaged and badly wounded, the effect of which will probably continue during life. I understand that he enjoyed the confidence of one of our highest and most distinguished officers, and bravely led a heavy column in the battle of Plattsburg. He is a gentleman of education and talents, and from his position and associations can render important services to the government and the Indians."

At the treaty made at Buffalo creek, in the State of New York, 15th January, 1838, with the New York Indians, there is this special provision for the St. Regis tribe, viz :

"Article 9. It is agreed with the American party of the St. Regis Indians, that the United States will pay to said tribe, on their removal west, or at such time as the President shall appoint, the sum of \$5,000,

as a remuneration for moneys laid out by said tribe, and for services rendered by their chiefs and agents in securing the title to the Green Bay lands, and in removal to the same; the same to be apportioned out to the several claimants by the chiefs of the said party and a United States commissioner, as may be deemed by them equitable and just."— (7 Stat. 552.)

By this treaty, the New York Indians ceded their lands, at Green Bay, to the United States for certain lands lying west of the State of Missouri, set apart for permanent homes for the Indians.

Mr. Williams appeared at the council which negotiated this treaty, and signed the treaty as the sole chief and agent of the St. Regis tribe.

In a supplemental article to this treaty, done at the council house at St. Regis, on the 13th February, 1838, there was this further provision, viz :

“The United States will, within one year after the ratification of this treaty, pay over to the American party of said Indians one thousand dollars, part of the sum of \$5,000 mentioned in the specific provisions for the St. Regis Indians, anything in said article contained to the contrary notwithstanding.”

The memorialist contends that this sum of \$5,000, provided in the treaty of January 15, 1838, was for the purpose of repaying the St. Regis Indians the sum of \$1,000, for monies advanced by the tribe in the procurement of the lands at Green Bay, and for paying Mr. Williams the sum of \$4,000, for services rendered in procuring and settling the title to those lands, and in fixing the boundaries thereof.

And, in this view of the matter, the committee think Mr. Williams is sustained—

1st. By the language of the treaty.

2d. By the statement of Mr. Schermerhorn, commissioner in 1836 to treat with the New York Indians, and who negotiated the preliminaries of the treaty of 1838.

The treaty of January 15, 1838, was finally concluded by R. H. Gillet, commissioner, who says, in a communication to the Indian Office dated 25th March, 1853: “The preliminary arrangements for that treaty were made by my predecessor, to whom I was referred for such information as I might need. Nearly every original paper connected with that treaty was burnt with my office in 1839.” Thus it appears that the preliminary arrangements of Mr. Commissioner Schermerhorn were to be recognized as the basis of the treaty, and that the original papers, which might have afforded a solution of all subsequent questions arising out of its execution, were destroyed by fire soon after the conclusion of the treaty, while in the commissioner’s custody.

By the act of 1846, \$1,000 was appropriated for the payment of that sum, as designated in the supplemental article.

Prior and repeatedly since that payment was made, Mr. Williams applied to the President for the \$4,000 claimed as belonging to him. In 1850 he submitted, amongst others, a paper signed by eighteen of the tribe, and representing themselves as the “chiefs and warriors,” fully recognizing and conceding the claim of Mr. Williams.

In 1852 Congress made an appropriation for the fulfilment of the treaty, as follows, viz: "For payment to the American party of the St. Regis Indians, (less the sum of \$1,000, &c.,) as a remuneration for moneys laid out by said tribe, and for services rendered by their chiefs and agents in securing the title to the Green Bay lands, and in removal to the same, agreeably to the provisions of the ninth article of the treaty with the Six Nations of New York, of 15th January, \$4,000."—(10 Stat., 18.)

S. Osborne was appointed commissioner, as required by the treaty, and in the discharge of his duty, under instructions from the department, he held a council with the chiefs of the American party of the St. Regis Indians, but the parties failed to agree. The chiefs claimed the money, as an annuity to the tribe, to be paid *per capita*, while the commissioner came to the conclusion that most, if not all, of the money rightfully belonged to Mr. Williams. No other person claimed any portion of it for any services or expenditures in regard to the Green Bay lands—that being the specific object for which it was stipulated to be paid. The commissioner declined to pay the money to be distributed *per capita*, as claimed by the tribe, and so reported to the department; whereupon he was directed to return the money, which being done he was discharged.

Marcus F. Johnson was then appointed commissioner, in place of Mr. Osborne, with instructions that the department had decided against the claim of Mr. Williams, and that he should "regard its decision in that respect as final and conclusive." Mr. Johnson, accordingly, proceeded to St. Regis, and on the 23d June, 1853, apportioned the money, giving to two chiefs \$450 each, and to other individuals of the tribe \$7 each, *per capita*.

After a full and careful consideration of the facts and circumstances of the case, the committee are clearly of opinion that this sum of \$4,000, by the terms and intent of the treaty, was not to be paid to the tribe *per capita*, but to their "chiefs and agents" "for services rendered;" and that the department exceeded its proper authority by directing the commissioner to reject the claim of Mr. Williams, and prescribing how the money should be disposed of. By the terms of the treaty the money was to be paid to the parties, and for the purposes therein named, as the commissioner and the chiefs should deem just, and not to such parties or in such manner as the department and chiefs should subsequently agree upon.

By that decision of the department Mr. Williams was deprived of any further opportunity of vindicating and establishing his claim before the commissioner, as contemplated by the treaty, and thereby, (as we think,) deprived of his just pay for services rendered, and the money intended for that purpose was misapplied.

In accordance with these views, the committee report a bill for the payment of the four thousand dollars to Mr. Williams, to which, they think, he is justly entitled, as well for valuable services rendered to the government, as by the true intent and meaning of the parties to the treaty.