

BLACKFOOT CLAIM.

DIGEST OF THE CASE.

<u>Date.</u>	<u>Legislation.</u>	<u>Parties.</u>	<u>Terms.</u>	<u>Disposition.</u>
1855	Treaty	Blackfeet. Bloods. Piegiens. Gros Ventres. Flatheads. Kootenais. Pend d'Oreilles. Nez Perces. Assiniboines. United States.	Fee recognized in Blackfeet, Bloods, Piegiens, Gros Ventres; 99 year hunting right to all tribes parties to treaty. Hunting right to Assiniboines in eastern part of fee. U.S. purchases right of way from Indians. Peace and amity provisions.	Ratified. 1856.
1865 1868	Treaty Treaty	U.S. Blackfeet & Gros Ventres Blackfeet. Bloods. Piegiens. United States.	same as 1868 Treaty Fee south of Teton, Marias and Missouri Rivers relinquished. Relinquishment to be effective upon ratification.	Not Ratified. Not Ratified.
1868	Treaty	Gros Ventres. United States.	Fee south of Teton, Marias and Missouri Rivers relinquished. Relinquishment to be effective upon ratification.	Not Ratified.
1873	Executive Order.	United States.	South boundry of fee of Blackfeet and Gros Ventres extended to Sun and Missouri Rivers. Extended east to 104". River Crows put in fee. Treaty 1868 considered as if it was ratified.	
1874	Executive Order.	United States.	Took fee south of Birch Creek, Marias and Missouri Rivers.	
1874	Executive Order.	United States.	Opened for settlement land south of Birch Creek, Marias and Missouri Rivers.	
1875	Executive Order.	United States.	Extended fee south on Musselshell to 47" and Yellowstone River.	
1880	Executive Order.	United States.	Restricted fee to land north of Birch Creek, Marias and Missouri Rivers, and line running plumb with south boundry of Fort Buford Reservation.	
1888	Treaty	Blackfeet. Bloods. Piegiens. Gros Ventres. Assiniboines. Sioux. United States.	Surrendered fee north of Missouri. Restricted to present limits, approximately of Blackfoot, Fort Belknap and Fort Peck Reservations.	Ratified.
1896.	Treaty	Blackfeet. Bloods. Piegiens. Gros Ventres. United States.	Blackfeet sold western section of their Reservation. Gros Ventres and Assiniboines sold southern portion of their Reservation.	Ratified.

Farwell I

Payments during years 1870 to 1887, inclusive, to the
Tribes of Blackfoot, Blood, Piegans and Gros Ventres in
Montana.

Date of Act.	Vol. of St.	Page of L.	Remarks.	Amount
Jul 15/67 10	16	336	1st payment to them after final payment under treaty of 1855 in 1865. The words of the paragraph making this appropriation of \$50,000 are almost identical with the provisions of the treaty of 1868 which was never ratified. The significant part, however, is that the following words have been inserted: "Including insurance and transportation thereof". These inserted words apply to the goods to be purchased with the \$50,000. In this connection see 13 Stats. 161, Act June 26, 1864, which made an appropriation of \$20,000 for the purchase of goods, being the 9th installment under the treaty of 1855. By the same act, page 162, the sum of \$17,000 was appropriated for transportation of the goods to the Blackfoot Nation. It will be noted on same page viz: 336, 16 Stats. L. that \$40,000 are appropriated, in exactly the same terms as for the Blackfoot, Blood, and Piegans, for the Arickarees, Gros Ventres and Mandans. The Gros. Ventres mentioned domesticated with the Mandans and their country is the Mandan country in a part of Fort Bertholdt, Dakota, along the eastern shore of the Missouri River. The Gros Ventres who formed a tribe making part of the Blackfoot Nation, are known as the Mountain Gros Ventres of the Judith and Little Rocky Country. On the same page an appropriation of \$30,000 is made in the same terms to the Assaboines.	\$ 50,000
Feb. 3/71	16	546	Payment in same terms as Act of 1870	50,000.
May 28/72	17	164 167	" " "	50,000.
Feb. 14/73	17	437 440	" " "	50,000.
Jun 22/74	18	146 149	" " "	50,000.
h 3/75	18	420 424	" " "	50,000.

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Mar. 3/71	16	546	Payment in same terms as Act of 1870	50,000.
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		Forward	300,000.00
Aug 15/76 19	176 178	See notes.	50,000.00
Mch 3/77 19	271 273	For the Blackfeet, Blood & Piegiens.	50,000.00
May 27/78 20	63 66	Same as provision of treaty of 1868. No reference to transportation. See same act p. 85 making appropriation of \$225,000 for transportation of Indian supplies to all reservations. By the same act p. 84 the Gros Ventres in Montana received \$25,000 for "subsistence and civilization" By same act p. 86 they received for building at Fort Benton	40,000.00 25,000.00 590.00
Feb 17/79 20	295 297	On p. 314, \$225,000 for transportation	40,000.00
May 3/80 21	114 129	Wording changed to "For support, civilization, and education of the Blackfeet, Bloods & Piegiens, <u>including pay of employees.</u> The act also provides "For subsistence and civilization of the Gros Ventres in Montana, \$25,000". (These seem to be the Gros Ventres of the Blackfoot Nation).	40,000 25,000.00
Mch 3/81 21	485 498	"For support, education and civilization of Blackfeet, Blood & Piegiens, <u>including pay of employees</u> " At page 499: "For subsistence and civilization of the Gros Ventres in Montana, including pay of employees"	35,000.00 20,000.00
Mch 6/82 22	7 9	In urgent deficiency act "For support of Blackfeet, Bloods, and Piegiens"	15,000.00
May 17/82 22	68 82	Same as act of March 3/81, <u>supra</u> ,	35,000.00
May 17/82 22	83	Same Act, same for Gros Ventres in Act March 3/81, <u>supra</u> ,	20,000.00
Aug 5/82 22	257 278	General Deficiency Bill, Support Blackfeet and Piegiens, <u>item</u>	25.20
Mch 1/83 22	433 446	Same as above for Blackfeet	35,000.00
Mch 1/83 22	446	Same as above for Gros Ventres only \$18,000	18,000.00

July 4/84	23	76 89	Support, education and civil- ization of Blackfeet, Bloods and Piegians, including pay of employees	50,000.00
" "	23	90	Gros Ventres	23,000.00
Feb. 8/84	23	267	For Indians at Crow, Fort Belknap, Fort Peck and Blackfeet Agencies This by Joint Resolution.	100,000.00
Mch. 3/85	23	362 377	Same as July 4/84 only for	80,000.00
" "	23	377	Gros Ventres in Montana	30,000.00
Jan. 12/85	23	516	For Indians at Crow, Fort Belknap, Fort Peck and Blackfeet Agencies Joint Resolution.	50,000.00
May 15/86	24	29 41	Same as March 3, 1885	80,000.00
" "	24	41	Gros Ventres	30,000.00
Aug. 4/86	24	222 293	Blackfeet, Bloods & Piegians	.75
" "	24	222 293	Gros Ventres	55.76
Mch. 2/87	24	449 461	Support, etc., Blackfeet, Bloods & Piegians, including pay of employees	75,000.00
" "	24	449 461	Gros Ventres (support and civilization) no reference to pay of employees	30,000.00
				<u>\$ 1,296,672.71</u>

RECAPITULATION.

For fulfilling treaty stipulations (but
including insurance and transportation), from
1870 to 1879, inclusive, 505,590.00

For support, etc., from 1880 to 1887,
inclusive, (but including pay of employees) 791,082.71

\$1,296,672.71

By the Act of June 26, 1864, 13 Stats. L. 161, the 9th and 10th installments under the treaty of 1855 were appropriated for the purchase of goods, viz: \$20,000 (p. 162).

By the same act \$17,000 was appropriated for the transportation of such goods for the Indians (p. 179).

Act of March 3, 1865, 13 Stats. L. 541, the last of the ten installments for purchase of goods was appropriated, viz: \$20,000.

"Indian Service in Montana Territory. - For the general incidental expenses of the Indian service in Montana territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

To enable the Secretary of the Interior to negotiate a treaty with the Blackfoot and other tribes of Indians to relinquish so much of their reservation as lies south of the Missouri River, fifteen thousand dollars". 13 Stats. L. 559.

"Sec. 11. And be it further enacted, That the sum of thirty-nine thousand two hundred and seventy-six dollars and fifty cents be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated to purchase Indian annuity goods for the Indians parties to the treaty of Fort Taramie and for the Blackfoot nation, to replace those destroyed by fire on the steamer Frank Bates, at Saint Louis, April seventh, eighteen hundred and sixty-six". 14 Stats. L. 208.

No appropriation for the benefit of the Blackfoot Indians from December, 1865, to March, 1867. 14 Stats. L. No appropriation from December, 1867 to March 1869. Cover 15 Stats. L.

"To enable the Secretary of the Interior to pay for services rendered by employees at the Flathead and Blackfeet agencies, in the Territory of Montana, and for supplies furnished and for traveling and incidental expenses of agents during a period of about four years, commencing in eighteen hundred and sixty-five, ten thousand eight hundred and forty-five dollars and fifty-four cents". 16 Stats. L. 306.

"Blackfeet, Bloods, and Peigans.- For this amount, to be expended in such goods, provisions, and other articles as the President may from time to time determine, including insurance and transportation thereof, in instructing in agricultural and mechanical pursuits, in providing employes, educating children, procuring medicine and medical attendance, care for and support of the aged, sick, and infirm, for the helpless orphans of said Indians, and in every other respect to promote their civilization, comfort, and improvements, fifty thousand dollars". 16 Stats. L. 336.

By act approved June 5, 1872, 17 Stats. L. 226, Flathead Indians were removed from the Bitter Root Valley to the Jocko Reservation, the government to sell their lands for

\$1.25 an acre. (N.B. This act must be carefully examined).

Act of June 20, 1874, 18 Stats. 133, provides on page 141 as follows -- for fulfilling the treaty with the Blackfeet, Bloods, and Piegans \$9,757.01. 18 Stats. L. 28 -- 1874. At same session act of appropriation was passed by which the territory shown on the map was defined as their reservation.

Act of August 15, 1876, 19 Stats. 176 -195. The Arickorees, Gros Ventres and Mandans received \$85,000.

On page 313, 20 Stats. L., See Section 6 of the act approved Feb. 17, 1879, Thom which it appears that appropriation for fulfilling treaty stipulations must only be used for that purpose.

Right of way was granted the Great Northern R. R. Co. by the act of Feb. 15, 1887, 24 Stats. L. 402.

Act of March 3, 1893, 27 Stats. L. 612-638 \$12,500 for support of 100 Indian children at the Blackfoot Agency.

By the 3rd article of the agreement of 1888, 25 Stats. 113-114, the United States agreed to spend annually for a period of ten years the following sums:

For the Indians at Ft. Peck Agency	\$165,000
For the Indians at Ft. Belknap	115,000
For the Indians at Blackfoot Agency	150,000
	<hr/>
	\$ 430,000

For ten years would amount to \$4,300,000. From the table which we have prepared showing appropriations made for the benefit of the Blackfeet, Bloods, Piegans and Gros Ventres in Montana after the last payment to those Indians under the treaty of 1855, it appears that during the interval from 1865 (after the last payment of the ten annual payments under treaty of 1855) these Indians, viz: the Blackfeet, Bloods, Piegans and Gros Ventres in Montana, received a total of \$1,296,672.71. The stats. L. disclose that after the agreement of 1888 the only sums paid these Indians were pursuant to that agreement and amounted as shown to the aggregate of \$430,000. a year. These payments were continued during the entire period of ten years.

28 Stats. L. 825-900 -- \$3500 appropriated for negotiating with Belknap and Blackfeet Indians for part of their reservation in Montana (Geo. B. Grinnell on Commission 1898). This commission resulted in \$1,500,000 being paid for a small N. W. slice of the Blackfoot Reservation. The Blackfeet received last of ten installments under act of 1888 \$1500000

Act of June 7, 1897, 30 Stats. L. 60-69.

Same act shows last installments to those at Belknap and Fort Peck.

First payment to Blackfeet under agreement approved June 10, 1896, Stats. 29 p. 354 - \$300,000.

30 Stats. L. 577 similar provision on the same page for those Indians at Belknap Agency.

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APPROPRIATION FOR HOLDING THE BLACKFOOT COUNCIL OF OCT. 17, 1855.

10 Stat. L., 330.

For the expenses of holding a council with, and making presents of goods and provisions to, the Blackfeet, Gros Ventres, and other wild tribes of Indians, immediately within, or adjacent to the eastern boundry of Washington Territory, eighty thousand dollars.

Approved: July 31, 1854.

See also; Life of General Isaac I. Stevens by Hazard Stevens, vol I, 431

For instructions of A. Cumming and Isaac I. Stevens in relation to the treaty council with the Blackfeet see: Report of Commissioner of Indian Affairs for 1855, pp. 209-213.

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STATEMENT BEFORE THE HOUSE COMMITTEE ON INDIAN AFFAIRS OF THE SIXTY SEVENTH CONGRESS, SECOND SESSION, ON H.R. 2432, FOR THE RELIEF OF CERTAIN TRIBES OR NATIONS OF INDIANS IN MONTANA.

H.R. 2432 proposes to grant full jurisdiction to the Court of Claims to hear and determine the claims of certain tribes or nations of Indians in the State of Montana. The bill was introduced by Mr. Riddick of Montana on April 11, 1921, and was referred to the House Committee on Indian Affairs. The Committee referred the bill to the Secretary of the Interior who has recommended it for passage.

The tribes of Indians seeking relief under H.R. 2432 are as follows: the Blackfeet, Bloods and Piegiens, who reside on the Blackfeet Indian Reservation in the State of Montana; the Gros Ventres and Assiniboines, who reside on the Fort Belknap Reservation in the State of Montana; the Flatheads, Kootenais and Pend d'Oreilles, who reside on the Flathead Indian Reservation in the State of Montana; and the Nez Percés, who reside partly on the Flathead Indian Reservation in Montana, and partly on the Colville and Lapwai Reservations in the State of Washington.

Serven, Joyce and Barlow, and John G. Carter represent the Blackfeet, Bloods, Piegiens and Gros Ventres, by virtue of a contract entered into with these tribes, which has been duly executed according to law, and has been approved by the Secretary of the Interior.

The claims of the tribes of Indians seeking relief under H.R. 2432 arise upon the following facts:

In 1855 the United States was anxious to secure peace and amity with the tribes of Indians who inhabited the upper Missouri River and the northern Rocky Mountains, and to put an end to the wars which these tribes were constantly having with one another. A. Cumming and Isaac I. Stevens were accordingly appointed by the United States as Commissioners to treat with the various tribes. On October 17, 1855, the Commissioners for the United States concluded a treaty with the Blackfeet Nation, declared in the treaty to consist of the Blackfeet, Bloods, Piegiens and Gros Ventres tribes of Indians; the Flatheads, declared in the treaty to consist of the Flatheads, Kootenais and Upper Pend d'Oreilles; and with the Nez Percés.

The treaty, by its terms, recognized a fee simple title in the Blackfeet Nation to all of that territory lying within the following bounds: in a line drawn east from Hell Gate Pass to the nearest source of the Musselshell River; down the Musselshell to the Missouri River; down the Missouri to the mouth of Milk River; thence north to the forty-ninth parallel of north latitude; thence west along the forty-ninth parallel to the main range of the Rocky Mountains; and south along the main range of the Rocky Mountains to the place of beginning. Within these boundaries the Assiniboines, who were not a party to the treaty, were granted hunting rights from Round Butte, on the Missouri River, east to the mouth of Milk River.

To all of the Indians, parties to the treaty, were given a ninety-nine year hunting right within the following described territory: in a line drawn east from Hell Gate Pass to the source of the Musselshell River; down the Musselshell to Twenty Five Yard Creek, now called Shield's Creek; down Twenty Five Yard Creek to the Yellowstone River; up the Yellowstone to its northern most source, now known as Divide, or Two Ocean Creek; thence north along the main range of the Rocky Mountains to the place of beginning.

Permanent habitations could not be established within this hunting ground by any of the Indians, except such habitations as might have been established by the tribes west of the Rocky Mountains prior to the treaty, or which they might have had a right to establish under the Laramie treaty of 1851. No permanent habitations could be established in the hunting ground, or within ten miles of its northern boundary, by the Blackfeet or Gros Ventres.

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The Blackfeet and Gros Ventres promised to allow the United States the privilege of establishing railroads, post roads and telegraph lines across their territory, and to allow the United States the free navigation of their rivers and streams. In return for these privileges the United States was to pay the Blackfeet and Gros Ventres not less than twenty, nor more than thirty five, thousand dollars a year in goods and provisions. No intoxicating liquors were to be introduced into the Indian country, and the Indians engaged not to harbor offenders against the laws of the United States, to live at peace with the United States, and at peace with each other, and with the surrounding tribes.

This treaty was executed by the United States, through its Commissioners, and by the chiefs and headmen for their respective tribes. The treaty was ratified by the Senate and proclaimed by Franklin Pierce, President of the United States, in 1856.

By 1868 the gold rush had reached the south western portion of what is now known as the State of Montana. The diggings of Virginia City, Bannock and Last Chance were being exploited. Conflicts with the Indians seemed likely to result, if they had not already resulted, from the sudden influx of whites into the country in violation of treaty stipulations. The United States, therefore endeavored to make a treaty with the Blackfeet and Gros Ventres, to which agreement the Flatheads and other tribes west of the Rocky Mountains were not a party, limiting and restricting the fee recognized as existing in the Blackfeet and Gros Ventres in 1855. A treaty was therefore negotiated with the Blackfeet at Fort Benton, and with the Gros Ventres at Fort Hawley, in 1868. By the terms of the agreements then made, the Blackfeet and Gros Ventres were to relinquish to the United States all of their territory south of the Teton, Marias and Missouri Rivers. In exchange for the cessions to be made by this treaty, the Blackfeet were to receive one million dollars, payable in twenty annual installments, and the Gros Ventres were to receive five hundred and twenty thousand dollars in twenty annual installments. Payments were to be made in goods and provisions. The River Crows were to be permitted by the Blackfeet and Gros Ventres to reside in their territory under the terms of this agreement.

Both of these treaties specifically set forth that the payments were to run from the date of ratification by the Senate and the President, and both treaties specified that they were to be binding on the contracting parties only when ratified by the Senate and the President. The treaties were never ratified. It is alleged that some payments were made on account of these treaties, and that the payments were accepted by the Indians. No record can be found, however, of appropriations made on account of the treaties of 1868. No public record shows that the treaties of 1868 exist.

By 1873 the United States had made a treaty with the River Crows, placing these Indians in the territory of the Blackfeet and Gros Ventres. In 1873 an Executive Order was promulgated which bounded the Blackfeet and Gros Ventres territory as follows: on the west by the main chain of the Rocky Mountains; on the south by the Sun and Missouri Rivers; on the east by the one hundred and fourth meridian of west longitude; and on the north by the forty-ninth parallel. This Order attempted to extend the Blackfeet and Gros Ventres territory eastward from the junction of the Milk and Missouri Rivers, to the one hundred and fourth meridian. The purpose of such an extension was apparently to provide room in the Blackfeet and Gros Ventres territory for the River Crows.

In 1874 Congress passed an Act, defining and limiting the Blackfeet and Gros Ventres territory as follows: "commencing at the north-west corner of the Territory of Dakota, being the intersection of the forty-ninth parallel of north latitude and the one hundred and fourth meridian of west longitude; thence south to the south bank of the Missouri River; thence up and along the south bank of said river, to a point opposite the mouth of the Maria's river; thence along the main channel of the Maria's river to Birch Creek; thence up the main channel of Birch Creek to its source; thence west to the summit of

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the main chain of the Rocky Mountains; thence along the summit of the Rocky Mountains to the northern boundary of Montana; thence along said northern boundary to the place of beginning." This Act, in effect, took away from the Blackfeet and Gros Ventres all that territory south of Birch Creek, the Marias and Missouri Rivers, including territory bounded by the Continental Divide, Birch Creek, the Teton and Marias Rivers, which had not been touched upon in the treaty negotiated in 1868.

An Executive Order in 1874 threw open for settlement all of the land in Montana south of Birch Creek, the Marias and the Missouri Rivers, which had been taken from the Indians by the Act of 1874.

An Executive Order promulgated in 1875 added more land to the Indian domain, extending its southern boundary up the Musselshell River to the forty-seventh parallel, and east along the forty-seventh parallel to the Yellowstone River.

An Executive Order promulgated in 1880 took away from the Indians a part of the land opened to them by the Executive Order of 1875, so that the southern boundary of the Indian territory was then limited to Birch Creek, the Marias and Missouri Rivers, and from the Missouri River on a line drawn flush with the south boundary of the Fort Buford Military Reservation.

In 1888 it was decided to place the Indians upon different agencies, and to that end an agreement was made with a majority of the adult males of the Blackfeet, Gros Ventres and Assiniboinés tribes, ceding all of their land and other rights, within their then existing reservation, as defined and limited by the Act of 1874, to the United States, with the exception of what may be roughly described as the land included within the present boundaries of the Blackfeet, Fort Belknap and Fort Peck Reservation. This cession refers only to territory described in the Act of 1874, and it is so recited in the preamble of the Act of 1888. Attorneys for the Indians are prepared, therefore, to admit that no claim exists for land, or other rights, taken by the United States north of Birch Creek, the Marias and the Missouri Rivers. The agreement of 1888 was ratified by Congress.

In 1896 it appeared that certain mineral deposits were to be found in the Rocky Mountains, on the western extremity of the Blackfeet Reservation, and in the Little Rocky Mountains, on the southern extremity of the Fort Belknap Reservation. The Blackfeet ceded to the United States a narrow strip of territory to the west of their Reservation, the territory so ceded now forming the eastern portion of the Glacier National Park. The Gros Ventres and Assiniboinés likewise ceded to the United States a small strip of the Little Rocky Mountains, which now forms what is known as the Zortman-Landusky mining district. There is no controversy over these cessions. The agreements were ratified by Congress.

On the basis of this statement of fact, the following claims are submitted by the tribes seeking relief under H.R. 2432:

1. A claim for compensation for the loss of the common hunting ground, which was the property of all the tribes who were parties to the treaty of 1855. The common hunting ground was established by the treaty of 1855, and the tribes who were parties to that treaty have never relinquished their rights therein by any subsequent act of theirs. This claim is modified, however, by set offs held by the United States, for rations and money advanced to the various tribes for their civilization, support and subsistence. The hunting ground covered approximately sixteen thousand square miles.

2. A claim for compensation by the Blackfeet and Gros Ventres for land taken from them under the unratified treaty of 1868. This land is bounded on the north by the Teton, and the Missouri Rivers; on the east by the Musselshell River; on the south by the Mussel-

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shell River and a line drawn from the source of the Musselshell River to Hell Gate Pass; and on the west by the main divide of the Rocky Mountains. This claim is based on the fact that the treaty of 1868 contained an express condition that payments thereunder were to begin, and the treaty was to be binding on the contracting parties only when ratified by the Senate and the President. The treaty was never ratified. This section includes about twenty five hundred square miles of territory.

3. If the treaties of 1868 with the Blackfeet and Gros Ventres are found to be valid and binding on them, then they have a claim for money due them under these treaties, which money has not been paid to them.

4. A claim for compensation by the Blackfeet and Gros Ventres for land taken from them by the Act of 1874. This land is bounded by the main range of the Rocky Mountains, and by Birch Creek, the Marias and the Teton Rivers. It forms a part of the fee recognized as existing in the Blackfeet and Gros Ventres under the treaty of 1855. It was not included in the land purported to have been taken by the treaties of 1868, or any other agreements with these Indians. This section comprises about three hundred and fifty thousand acres.

5. It has been found on investigation at the Indian Office that the Blackfeet tribal fund has been erroneously charged to the extent of from fifty to seventy five thousand dollars. The Blackfeet have a claim for the recovery of the sums erroneously charged against them, and taken from their tribal funds.

The bill granting relief to these Indians, and giving them the right to carry their case to the Court of Claims has twice passed the Senate, and has four times been recommended for passage by the Secretary of the Interior. The claim itself has been pending for over ten years. It is requested that H.R. 3432, which proposes to give these Indians their day in court be favorably recommended by this Committee.

It is requested that Attorneys be granted permission to file with this Committee maps illustrating the various phases of these claims, together with a brief statement of the case for the Committee's information and guidance.

SERVEN, JOYCE AND BARLOW.

JOHN G. CARTER.

Attorneys for the Blackfeet and
Gros Ventres.

"BLACKFOOT CLAIM"THE CASE STATED

In 1855 the United States concluded a treaty with the Indians who inhabited the Upper Missouri and the Northern Rocky Mountains. The purpose of this treaty was to establish tribal boundaries and procure peace and amity between the United States and the various tribes, and to terminate inter-tribal wars. The parties to the treaty on one hand were the United States by its Commissioners Isaac I. Stevens and A. Cumming, and on the other hand the chiefs and headmen of the Blackfoot Nation, declared in the treaty to consist of the Piegan, Blood, Blackfoot and Gros Ventres Tribes of Indians, and the Flathead Nation consisting of the Flathead, Kootenay, Pend d'Oreille and Nez Perce Tribes of Indians.

vid. Report
of Commissioner
of Indian
Affairs for
1855
Instructions to
A. Cumming &
Isaac I. Stevens.

The terms of the treaty recognized a fee simple title in the Blackfoot Nation to all of that territory lying within the following bounds: in a line drawn east from Hell Gate Pass to the nearest source of the Musselshell River, down the Musselshell River to the Missouri River, down the Missouri River to its junction with the Milk River, thence north in a direct line to the 49th Parallel, thence west along the 49th Parallel to the Main Range of the Rocky Mountains, and south along the Main Range to the place of beginning. The fee so recognized is subject to only one restriction, whereby hunting privileges were given to the Assineboin Indians in the eastern part of the fee between its eastern boundary and a line drawn north from Round Butte on the Missouri River to the 49th Parallel. The Assineboins were not parties to the treaty.

11 Stat. at L.
657.

Vol. II Life of
General Stevens
by Hazard
Stevens.

To all of the Indians parties to this treaty were given a 99-year hunting lease within the following described territory: in a line drawn east from Hell Gate Pass to the nearest source of the Musselshell, thence to 25 Yard Creek (now called Shields Creek), down 25 Yard Creek to the Yellowstone River, up the Yellowstone River to its northern most source (now known as Divide or Two Ocean Creek), thence north along the Main Range of the Rocky Mountains to the point of beginning. Permanent habitations could not be established within this hunting ground by any of the Indians except such permanent camps as might have been had by the Flatheads and other tribes west of the Rockies prior to the making of the treaty, or which were conferred on them by the Laramie Treaty of 1851. No permanent habitations could be made by the Gros Ventres or Blackfeet within ten miles of the northern boundary of this hunting ground.

Landlord &
Tenant.

The Blackfeet and Gros Ventres promised to allow the United States certain easements and rights of way across their territory, with the privilege of navigating their streams and establishing railroads, postal roads, telegraphs and other lines of communication. In consideration for this privilege the United States was to give these Indians not less than \$20,000 nor more than \$35,000 per annum, which payments were to be made in such useful goods and provisions as the President might see fit. All of the Indians signatory to this treaty agreed to live in peace and amity with each other, and the Indians requested and the United agreed that no intoxicants or ardent spirits should be imported into Indian territory. The Indians further promised that they would not harbor offenders against the laws of the United States.

This treaty was ratified by the Senate and proclaimed by Franklin Pierce, President of the United States, in 1856.

Montana
Historical Society
Reports of H. P. Pangford
"Vigilant days & ways."
P. B. Palladino "Indian & White in the Northwest."

By 1868 the gold rush had reached the southern portion of Montana. The diggings at Last Chance, Virginia City and Bannock were then being exploited. Conflicts between the Indians and settlers were

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apt to result, if they had not already resulted, from this influx of whites. The United States therefore endeavored to make a treaty with the Blackfoot and Gros Ventres Tribes, to which treaty the Flatheads and tribes west of the Rockies were not parties, limiting and restricting the fee given them in 1855. A treaty was therefore made with the Blackfeet at Fort Benton in 1868, declaring that the Blackfoot territory was bounded on the west by the Main Range of the Rocky Mountains, on the south by the Teton, Marias and Missouri Rivers, on the east by a line drawn north from the junction of the Milk and Missouri Rivers to the 49th Parallel, and on the north by the 49th Parallel. In exchange for the cessions and relinquishments made by this treaty, the Government promised to pay the Blackfoot Indians the sum of \$1,000,000, in twenty annual installments. The Blackfeet promised to allow the Government to place within their territory the River Crows, or a branch of the Absaraka who had broken off from the main body of that tribe.

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A treaty of similar purport was made with the Gros Ventres Indians at Fort Hawley, Montana, in which the Gros Ventres conceded that their territory should be bounded by the same lines as that made in the Blackfoot Treaty, and made the same cessions. In return for this, the Gros Ventres were to receive \$26,000 annually for twenty years.

Both of these treaties specifically set forth that the time of payments should run from the date of ratification and that the treaties should not be binding upon either party until the same had been ratified by the Senate. The treaties were never ratified, but payments were made as if the treaties had been ratified. In regard to the Blackfeet, \$150,000 in payments under this treaty are still due.

In 1873 the United States had already made a treaty with the River Crows, putting them in the same territory with the Blackfeet and the Gros Ventres. An Executive Order was made in 1873 extending the territory of the Blackfeet and Gros Ventres on its western extremity south to the Sun River and on its eastern extremity east to the 104th Meridian. The purpose of this order was evidently to give the Indians more room to get along with their new neighbors.

In 1874 Congress passed an Act taking away from the Blackfeet and Gros Ventres all that territory south of Birch Creek and the Marias River. This territory, or a part of it as far south as the Teton River, had not been touched by the Treaties of 1868. In 1874 an Executive Order opened for settlement all of that land in Montana south of Birch Creek, the Marias River and the Missouri River. In 1875 it became apparent that more land was required for the Indians, so that a certain tract of territory was added to their domain, bounded on the south by the 47th Parallel, on the east by the Yellowstone River, and on the west by the Musselshell River. In 1880 the United States again decided to curtail the Indian territory and to that end took away a part of the land given by the Executive Order of 1875, so that the southern boundary of the Indian Reserve then extended down Birch Creek, the Marias River, the Missouri River, and from the Missouri on a straight line flush with the southern border of the Fort Buford Military Reservation. In 1888 it was decided to place the Indians upon different agencies and an agreement was made with a majority of the male adults of the Blackfoot, Gros Ventres and Assiniboin Tribes, ceding all of the land of their reservation to the United States with the exception of what may be roughly described as the present boundaries of the Blackfoot, Fort Belknap and Fort Peck Indian Reservations. The Act of 1888, however, made this cession apply only to those boundaries as described in the Act of 1874; in fact, in the preamble of the Act of 1888, we find it recited that the reservation set apart by the Act of Congress approved

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April 18, 1874, is wholly out of proportion to the Indians occupying the same. It is therefore apparent that the cessions made in the Act of 1888 did not refer to any territories outside of the boundaries set forth by the Act of 1874.

In 1896 it appeared that certain mineral deposits were to be found in the Rocky Mountains on the western extremity of the Blackfoot Reservation, and in the Little Rocky Mountains on the southern extremity of the Fort Belknap Reserve. The Gros Ventres and the Assineboins therefore ceded by the Act of 1896 a small strip of the Little Rocky Mountains, in what is known as the Zortman Mining District, to the United States. The Blackfeet likewise ceded a narrow strip of territory to the west of their reservation in what is known as the Glacier National Park of the United States.

On the basis of the above statement of case, we argue that there are five valid claims which may be brought by the parties who were signatory to the Treaty of 1855. These claims are -

(1) An action by the Blackfeet, Bloods, Piegiens and Gros Ventres for a strip of territory unlawfully taken from them by the Treaty of 1868. This strip includes that portion of territory bounded by the Teton River, the Missouri River on the north, on the east and south by the Musselshell and by a line drawn from the source of the Musselshell west to Hell Gate Pass, and on the west by the Main Divide of the Rocky Mountains. This claim is based upon the fact that the treaty which was made in 1868 demanded ratification by the Senate, as a condition precedent to its going into effect, and that any taking of this territory while the treaty in question was unratified was an unlawful invasion of the rights of these Indians upon which they can claim compensation. Their rights in the hunting lease were furthermore not covered by the Treaty of 1868 or, if they were covered, were subsequently wrongfully taken because of failure to ratify that treaty. A suit is therefore to be brought to recover the fair value of the territory just described and the fair value of the hunting rights which were lost to these Indians.

(2) If the Treaty of 1868 were valid, then there is still \$150,000 due these Indians on account of that treaty and a suit will lie to recover the balance due. It is to be noted that the first and second claims are mutually exclusive, as a judgment in one would bar a judgment in the other.

(3) The Flatheads, Kootenays, Pend d'Oreilles and Nez Perces have an interest in the 99-year hunting lease which was given them by the Treaty of 1855, in common with the other Indians parties to that treaty. They were not parties to the Treaty of 1868 and have never relinquished any claim to the hunting lease. They have, nevertheless, been deprived of that lease and the lease has been rendered valueless by the driving out of the game by white settlers. A suit will therefore lie on the part of the Flatheads, Kootenays, Pend d'Oreilles and Nez Perces to recover the fair value for the loss of these hunting rights, which were their main reliance for subsistence.

(4) A section of territory in the fee simple title recognized in the Gros Ventres and Blackfeet by the Treaty of 1855, which is bounded roughly by Birch Creek, the Marias and the Teton Rivers, was wrongfully taken from the Gros Ventres and Blackfoot Indians by the Act of 1874. This strip of territory was not included under the 1868 Treaty and was part of the territory recognized as theirs by the Treaty of 1855. Therefore, the taking of it by Congress without consulting the

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Indians or without substantial compensation was an unlawful proceeding and a suit should lie for the recovery of the fair value of this strip of territory by these Indians.

(5) It is found on investigation at the Indian Office that the Gros Ventres and Blackfoot Indians have had a \$40,000 charge made against their tribal fund, which is admitted by the Indian Office to have been made erroneously. A suit to recover will lie to get back this \$40,000 which was erroneously charged against these Indians.

IN CONCLUSION

The Bill granting relief to the Blackfoot and other Indians who were parties to the Treaty of 1855 has twice passed the Senate and three times been recommended favorably by the Secretary of the Interior. The last recommendation by the Secretary of the Interior to the House has been unfavorable, but it has been admitted by the Indian Office that the unfavorable report was made owing to a misapprehension of the officials there as to the nature of the claim. When the claim was explained to the officials of the Indian Office, they expressed a willingness to make an appearance before the proper Committee of the House and explain that their disapproval was made on an incomplete presentation of the case and that they are now prepared to give their approval to the passage of a Bill to give these Indians their "day in court."

NOTE:

The Assiniboiné Tribe of Indians were given hunting rights within the Blackfoot fee, by Article 4 of the Stevens Treaty of 1855. These hunting rights were embraced within the following described territory: in a line drawn north from Round Butte, on the south bank of the Missouri River, to the forty-ninth parallel, thence east on the forty-ninth parallel to the eastern boundary of the fee, thence south along the eastern boundary of the fee to the Missouri River, thence west up the Missouri River to the place of beginning. These hunting rights the Assiniboines ceded to the United States by the Act of 1888. They have, therefore, no existing claims against the United States, arising out of the Treaty of 1855.