

the Osages, for the filing fees received subsequent to the former account, which embraced all fees received up to and including June 30th, 1884. Acting upon the same supposition, that the former decision of the Second Comptroller was binding in relation to this matter, the account which is now before you has been stated by the Commissioner of the General Land Office, and passed the Commissioner of Indian Affairs and the Second Auditor. We learn, however, that you are about to consider this question *de novo*. It may not be improper to present to you, therefore, the main points in the case. We hold—

First. That the United States acts merely as trustee for the Osage Indian Nation.

Second. That under the specific terms of that trust, it is the clearly defined intention of law and treaty obligations to sell the lands of the Osages, and after paying the expenses incident to the sale thereof, the balance is to be placed to the credit of the Osages as an interest-bearing fund.

On these two propositions is based the pending claim for \$43,934.62. Both are sustained by the unequivocal statement of the treaty with the Osages, dated Sept. 29th, 1865, (14 Stats., 688.) After giving certain boundaries, the language of the treaty is:

“Which land is to be held in trust for said Indians, and to be surveyed and sold for their benefit by the Secretary of the Interior under such rules and regulations as he may from time to time prescribe, under the direction of the Commissioner of the General Land Office, as other lands are surveyed and sold. The proceeds of such sales as they accrue, after deducting all expenses incident to the proper execution of the trust, shall be placed in the Treasury of the United States to the credit of said tribe of Indians.”

The question now arises as to what constitutes the “proceeds of the sales” and what the “expenses incident to the proper execution of the trust.” Let us first consider how the lands are sold. Section 2283 R. S. prescribes that—