

Congress should have made it a crime to receive money for services from a tribe where no contract exists, it presents simply a *cassus omissus*.

It is proper for us to here observe that your proposed receipt of what is justly and reasonably due to you for your said services cannot only *not* be brought within the prohibition of these sections of the Revised Statutes, but such receipt by you cannot be objected to as in any degree improper, immoral, or against the policy of these statutes. It is made absolutely plain by the above-recited facts, that before your said relinquishment, on the morning of the 11th of February, 1889, there was justly due to you from the tribe, for the services rendered under your duly-acknowledged, approved, and recorded contract of the 4th of February, 1885, an amount equal to six and one-half per cent. of what you were instrumental in collecting. This should have been paid to you, according to the express letter of the statute, as your *then dues* from the tribe; and that amount had been expressly approved by a law of the National Council. You chose to surrender, in order to advance the interests of your client, all of said six and one-half per cent., except such amount as the authorities of the tribe might decide to pay to you. This you did in your said letter of the 11th of February, 1889.

Now, to say that you, as a matter of either justice, reason, or law, shall be held not only to have surrendered that six and one-half per cent., but, also, to have surrendered all right to all just compensation, even such as the tribe wishes to pay to you, and that said statute makes it a crime for you to receive that, is, as seems to us, a preposterous interpretation of the statute, and of what you did in regard to the premises.

This ends our quotation from our said opinion.

Such, in substance, was our view, at the said date of our said opinion, of the important matters which that opinion covers.