

tion. The prohibitions in sections 2103 and 2105 have not regard, at all, to the matter of the Indians paying for services actually necessary and rendered *in the absence of express written contract*. The statute did not render unlawful, services rendered to the Indians on implied obligations to pay what the service was worth, and such contracts are constantly made and enforced. So far as these sections are either penal, declaring forfeitures, or are criminal, *they stop* at making the *violation of the limit of compensation fixed by the Commissioner and Secretary* an offence, and nothing else than that is made such.

We are anxious to be exceedingly careful, and to be precisely right, in regard to our application to the present case of the familiar rule of interpretation requiring statutes highly penal or criminal to be "strictly construed." We, therefore, proceed to present other authority.

In the recent work of "Endlich on the Interpretation of Statutes," in section 329 *et seq.*, will be found a valuable collection of the authorities upon this matter, and a very comprehensive and technically accurate analysis of the most modern meaning of these words "strictly construed," as found in the said rule of interpretation.

And, in now adding this reference to other authority, it is proper here to say, that *two* rules, although akin to each other, yet distinct, are by us here invoked. One of these is that requiring all penal laws to be "strictly construed." The other is that which says that there are in the family of statutory crimes no "*constructive crimes*;" that is, no crimes that are not included by the *very words* of the criminal law as such words were *meant* to be employed in the law. As bearing now upon each of these two rules of interpretation, we refer you to some of the language of, and some of the cases cited in, said section 329 *et seq.* of Endlich. The author says (p. 452):

"An offence cannot be *created or inferred by vague implications*." (Citing *Atlanta v. White*, 33 Georgia, 229.)