

the mischief of a statute is within its provisions because it is of equal atrocity, or of a kindred character, with those which are enumerated in the words of the act.

Now, apply that rule here. It may be suggested that to receive money from an Indian tribe where no contract exists, and where, therefore, *any* payment is one in excess of what has been fixed by a contract approved by the Commissioner and Secretary, is an act of *equal enormity* with receiving pay in excess of the limitation actually fixed by a contract; and, therefore, the receiving of pay actually and justly due for services *where no contract exists* is as culpable as the offence actually covered by the words of the statute, and, therefore, is within the statute. But the authorities just cited (and they are endless in number), say that it is not permissible to make that a crime which is not covered by the very words of the statute, merely because the act sought to be made a crime within the statute is as wicked as some that are within the words of the act. To do such a thing is the very enormity denounced so forcibly by Judge Dillon in Clayton's case and the authorities he cites.

This decision, by Judge Dillon, by the way, has come to be, already, a leading case on said rule of interpretation, and is approved and cited, in subsequent cases, and text-books, as an accurate exposition of this important rule of law. (See, for example, Endlich on Interpretation of Statutes, pp. 101 and 451.)

The author, Endlich, declares that this paragraph, last cited, holding that because an act is *equally culpable* with one named in the statute, and is within the *spirit of the statute*, it is *not*, therefore, brought under the statute, where no words bring it there, is the *true test* of the difference between "liberal" and "strict construction." He says (p. 454):

"In this characteristic, the difference between 'liberal' and 'strict' construction is clearly presented."