

House Report 1466 to Accompany H.R. 4497, 12-20-1945, Creating an Indian Claims  
Commission. Arnold and Porter Hopi Archive Box 336.

## CREATING AN INDIAN CLAIMS COMMISSION

DECEMBER 20, 1945.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

MR. JACKSON, from the Committee on Indian Affairs, submitted the following

### REPORT

[To accompany H. R. 4497]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 4497) to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### HISTORY OF THE LEGISLATION

This recommendation is made by unanimous vote of the committee after a series of hearings at which all persons interested in expressing views on the subject had a full opportunity to be heard. In the course of these hearings Indian groups, civic organizations interested in the welfare of the Indians, the Department of the Interior, and the Department of Justice suggested various amendments to the Indian Claims Commission bills originally introduced in this session by Congressman Stigler, of Oklahoma (H. R. 1198), and Congressman Robertson of North Dakota (H. R. 1341). Most of the suggested amendments appeared meritorious and they have been incorporated in the present bill, introduced by the chairman of the Indian Affairs Committee at the unanimous request of the committee.

The bill in its present form is primarily designed to right a continuing wrong to our Indian citizens for which no possible justification can be asserted. Today any white man who has supplied goods or services to the United States under contract may, if the United States has failed to carry out its part of the bargain, go into the Court of Claims, or, in certain cases, into the Federal district courts, and secure a full, free, and fair hearing on his claims against the Government. This is an integral part of the American system of justice under which

the humblest citizen and the highest official are equal before the law. The only American citizen today who is denied such recourse to the courts is the Indian. By virtue of a statute adopted on March 3, 1863,<sup>1</sup> at a time when a good many Indian tribes were engaged in hostilities against the Federal Government, all claims against the United States growing out of Indian treaties<sup>2</sup> were barred from the jurisdiction of the Court of Claims, and from that day to this no Indians have been able to bring their disputes with the Federal Government before the Court of Claims without a special act of Congress permitting them to receive the hearing that it is the right of every other American citizen to demand without special legislation. This lingering discrimination, which arose at a time when Indians were not citizens and were commonly regarded as a hostile or inferior people, is felt today as a badge of shame by some 400,000 of our Indian citizens who, during the war, have contributed voluntarily to the service of the Nation in a measure far out of proportion to their numbers in population, who have won an amazing number of decorations for military valor and sacrifice, and who have contributed to our war bond drives in a measure wholly disproportionate to their limited economic resources.

At the end of the First World War the patriotism of the American Indian was recognized by the Congress in legislation which granted all Indians citizenship. It is only fitting that at the end of World War II the devotion and patriotism of our Indian citizens be recognized by abolishing the last serious discrimination with which they are burdened in their dealings with the Federal Government and by giving them a full and untrammelled right to have their grievances heard under nondiscriminatory conditions by the appropriate courts of the United States.

That, in brief, is the primary objective of H. R. 4497. It is difficult to see how any American who is attached to the ideal of a government of laws can quarrel with that objective. Certainly no American can consistently voice concern over the denial of democratic rights to various minorities abroad so long as our own oldest national minority is denied the day in court which is freely accorded to other citizens.

The designing of proper machinery to accomplish this objective is a matter which has engaged the serious study not only of the House Committee on Indian Affairs but also of the Senate Committee on Indian Affairs, the Department of the Interior, and many responsible groups of Indians, of scientists, and of public-spirited citizens. Since the publication of the Merriam Report, an impartial study of the Indian problem made by the Institute for Government Research at the request of Secretary of the Interior Hubert Work in 1928, every group that has studied the problem of Indian claims has come to the conclusion that it is essential not only to grant the Indian his long-delayed day in court, but also to set up an impartial fact-finding commission which will facilitate the judicial solution of disputed cases, and will report directly to the Congress on those cases where the law is undisputed and the facts are clear.

<sup>1</sup> Sec. 9, 12 Stat. 765, 767.

<sup>2</sup> This phrase has apparently been construed to cover not only injuries committed at the time of the treaty but injuries committed fifty or a hundred years later with reference to the lands or funds which were granted to the Indians under a treaty.

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## PURPOSE OF THE BILL

The bill would establish such a body, responsible to the Court of Claims and the Supreme Court of the United States with respect to all legal controversies. It would require all pending Indian claims of whatever nature, contractual and noncontractual, legal and non-legal, to be submitted to this fact-finding body within 5 years, and would outlaw claims not so submitted. It would require a final disposition of all such claims within 10 years, at which time the Indian Claims Commission would cease to exist. Moreover, in order to prevent any future accumulation of unsettled claims, the statutory prohibition against litigation in the Court of Claims growing out of agreements with Indian tribes would be lifted and the Indian would henceforth have the same right as his white or black neighbor to secure a full and free hearing in the Court of Claims, or any other appropriate tribunal, on any controversy with the Federal Government that may arise in the future. Once Indian tribes are given the same right as any non-Indian to bring suit on grievances that may arise in the future, there would be no need to accord any special treatment to such Indian claims as may subsequently arise. It is advisable, however, to set up a Claims Commission at the outset so that the facts underlying the backlog of cases that have accumulated during the 82 years in which Indians have been denied free and equal access to the courts can be expeditiously determined. The reference of these cases to referees or commissioners separately appointed by the Court of Claims for each case would be a costly and time-consuming procedure. A wholesale examination of all the facts in all these cases by an impartial fact-finding commission set up for this special task would, in the judgment of all who have studied the problem, expedite its final solution.

This solution of the Indian claims problem is one that has been supported by the political pledges of both parties. The last prewar Democratic platform, adopted in 1940, declared:

We favor and pledge the enactment of legislation creating an Indian Claims Commission for the special purpose of entertaining and investigating claims presented by Indian groups, bands, and tribes in order that our Indian citizens may have their claims against the Government considered, adjusted, and finally settled at the earliest possible date.

The Republican platform in the same year provided (and the provision was reaffirmed 4 years later):

We pledge an immediate and final settlement of all Indian claims between the Government and the Indian citizenship of the Nation.—

On December 15, 1941, the Senate Committee on Indian Affairs, reporting favorably on legislation generally similar to the present bill, after setting forth the foregoing platform pledges, urged that the Congress enact the proposed Indian Claims Commission bill to "keep faith with such pledges."

Unfortunately, the events following Pearl Harbor made legislative consideration of Indian claims legislation untimely. The end of hostilities makes it entirely appropriate today to consider the proposed legislation on its merits. Such consideration must cover at least five points: (1) The nature of Indian claims; (2) the difficulties of present procedures; (3) the relations of a claims commission to the Court of Claims; (4) the cost of the proposed legislation; (5) analysis of the provisions of the bill.

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## 1. THE NATURE OF INDIAN CLAIMS

Indian claims against the Federal Government are, by and large, about as varied in their nature and origin as are the claims of any other citizens or corporations which have had dealings with the Government. The United States has been dealing with the Indians by treaty, agreement, and contract in buying and selling land, timber, and minerals, amounting in value to many hundreds of millions of dollars. About 95 percent of our public domain was purchased from the Indians by the Federal Government, and it has been estimated that about \$800,000,000 was paid to the Indians in this process. These funds have generally been placed in special trust accounts in the United States Treasury. All sorts of agreements have been made concerning the use and disposition of these funds and promising protection of the lands retained by the Indians. Generally these agreements were made in good faith and have been faithfully carried out. But it would be a miracle if in the execution and consummation of these transactions the same kind of mistakes and misunderstandings did not arise that would arise in the course of comparable transactions with white individuals or corporations. Indeed, because of the likelihood of misunderstanding in dealings with people poorer and less educated than their neighbors, it is only natural to expect a somewhat higher incidence of controversy in Indian dealings than in other Government negotiations. A few examples may make clear the scope of Indian claims.

On July 16, 1905, a heavy storm on the Menominee Indian Reservation threw down a large stand of timber, which the Indian Bureau had undertaken to harvest. The Indians claimed that the Indian Service failed to carry out its obligation to dispose of the down timber at its true value. The Court of Claims, empowered by a special act of Congress to consider the merits of the Indian grievance, found that it was largely justified and awarded a judgment in favor of the Menominee Indians.

Within the past 30 or 40 years there have been several cases in which Indian lands which the Federal Government undertook to sell for the account of the Indians have been put into national parks or grazing districts or otherwise disposed of in such a way that the Indians have not received the payments that were due them. The status of such lands is often seriously clouded because the Indian claim to these lands has never been finally adjudicated. This situation, besides being unfair to the Indians, is a serious hindrance to development in many parts of the country.

Some Indian claims go back many years in their origins, but the years do not always wipe out past mistakes. Thus, in 1894, a boundary line was drawn around the Warm Springs Reservation in Oregon which was supposed to define accurately the lands guaranteed to the Indians by treaty in 1855. A mistake was made in drawing this line. The result is that there is a piece of national forest which is outside the Indian boundary that should be inside the Indian boundary. There is no dispute about the facts. The Indians look over the erroneous boundary line to the timber and grass on the land that was promised them. The fact that the error was made many years ago does not make the present generation of Indians any less eager to correct a

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mistake which the Federal Government admits it made but for which no adequate judicial remedy has yet been provided.

There is no factual basis for the view that Indian claims are all of ancient origin, but even if there are some claims that have roots in 80- or 90-year-old treaties, it is hard to understand why their age should deprive the aggrieved Indians of appropriate relief. There is substance, as well as eloquence, in the plea of a group of Indians from the State of Washington:

We are told that you \* \* \* have said that our claims are too old. Who made them old; who delayed the settlement? We are your children; we are your wards; we can do nothing without your consent. We have been—we are now helpless unless you act. We cannot bring suit against you in your courts. If settlement with us has been delayed, it has been due to your own fault. It is not the fault of the poor, ignorant, helpless Indian. Will you take advantage of your own fault? Will you say, I delayed a long time settling with my children; now because I delayed so long I will not settle with them at all? An Indian does not so pay his debt. If he cannot pay it his children pay it. We cannot believe that you \* \* \* meant to take advantage of the poor Indian, and refuse to pay him because of your own delay.

It is sometimes said that those Indians who suffered most under mistaken Federal policy or under the maladministration of good policies by weak or faithless public servants have passed on and that there is no reason to compensate their descendants for old injuries. But it was the Federal Government that insisted on dealing with the Indians as continuing corporate entities, and on holding payments on land sales for the benefit of later generations. And so the present generation of Indians is entitled to claim the funds that were set aside in trust for them, in place of the lands that they would own today if these transactions had never been consummated. If we fail to meet these obligations by denying access to the courts when trust funds have been improperly dissipated or other fiduciary duties have been violated, we compromise the national honor of the United States.

## 2. THE DIFFICULTIES OF PRESENT PROCEDURES

The chief difficulty under present procedures applicable to Indian claims is to be found in the fact that for most violations of their rights our Indian citizens have never been able to obtain a day in court. This, on the one hand, encourages bureaucratic disregard of the rights of Indian citizens by a small minority of governmental officials who are comforted by the thought that there is no judicial redress available to the victims of their maladministration and, on the other hand, gives color to grievances which may assume tremendous proportions in the minds of the Indians where a full and fair trial would show that the grievance is wholly imaginary. Unfortunately, there are some non-Indians who have helped to expand these imaginary claims to a point where the Indian concerned, like a man expecting a vast legacy in a few days, become thoroughly uninterested in the daily business of earning a living. The existence of rights without remedies thus serves as a serious barrier to Indian economic progress.

Another serious result of the present situation is the fact that many persons of Indian blood, who are fully capable of taking their place in nonreservation life on the same basis as any other citizen, are impelled to cling to tribal associations because of the Indian's "fear that separation from the tribe might deprive him of his share of a settle-

ment which he believes the Government may some day make" (report of Select Committee to Investigate Indian Affairs and Conditions, H. Rept. No. 2091, 78th Cong., 2d sess., sec. 3, p. 6). Only a procedure which provides for prompt hearing and final disposition of these grievances will make it possible for the tribes and the Federal Government to settle their accounts finally with those Indian citizens who no longer need special Federal services. In the long run such a solution would make it possible to terminate a substantial part of the continuing Federal appropriations for Indian administration.

Of course, the current statutory prohibition against consideration of claims arising out of Indian treaties is subject to special exceptions which are made from time to time by special acts of Congress conferring jurisdiction on the Court of Claims to hear the grievance of one or another tribe. This way of handling a general problem through special legislation for particular tribes and particular grievances does not begin to meet the needs of the situation. In the nature of things, considering the complexity of Indian cases and the increasing burdens which other national problems place upon congressional attention, special jurisdictional acts can be fully considered and enacted in only a small minority of the Indian cases that are presented at each session for congressional consideration. This means that the mass of unsettled cases continues to grow, probably at a rate that is faster than the disposition of those cases for which Congress has enacted special legislation. The pernicious effects of long delay and the denial of justice are thus an inherent part of the procedure under which Indian claims can be disposed of only through special act of Congress.

In addition to these pernicious effects, the present procedure imposes a vast and growing burden upon the legislative and executive branches of the Government. Because the process of securing a jurisdictional act is slow, it is expensive and involves much unnecessary labor. Every added year's delay between the commission of an injury and the adjudication of its consequences brings new complications, new accounting problems, and additional masses of evidence that need to be considered by the General Accounting Office, the Department of Justice, and the Department of the Interior, as well as by the committees of Congress and the Court of Claims.

Securing congressional permission to bring a particular suit in the Court of Claims generally takes a good many years. Since only a small portion of the claims presented to any session can be fully considered by the congressional committees, most claims return session after session, despite disregard or defeat, and regardless of whether they are meritorious or not. The attitude of the administration, as well as of the Congress, on a given claim may change from year to year. There are some jurisdictional bills which have been favorably reported in some sessions and unfavorably reported in other sessions. Thus the Indians must hire attorneys for long terms in the hope that sooner or later a time will come when both Houses of Congress will have time to consider their claim and will agree that it is entitled to judicial consideration. The Indians may have to try their case many times before congressional committees before they have an opportunity to try it before the Court of Claims. Through the years the expenses of attorneys, representatives, and witnesses, together with the burdens upon the Congress and the executive branch of the Government, continue and grow.

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These burdens on the Indians and the Government do not cease with the enactment of a special jurisdictional act. For what happens very frequently is that by the time the case actually comes on to be heard by the Court of Claims new facts have developed which were not available to the Congress when the jurisdictional bill was originally drafted. In the light of these new facts, it often turns out that the jurisdictional act was inadequate to cover all the issues in the case. It then becomes necessary for the Indian tribe to return to the Congress for amendatory or additional legislation. Under the present procedure, few claims are finally settled. The chief effect of the present procedure is to foster and multiply controversies without settling them, and to provide perpetual jobs for lawyers in private practice and in Government.

Inherent in the present procedure is a vast amount of inefficiency, unnecessary expense, and duplication of effort. Because each case is separately treated, it is necessary for the Interior Department, the Department of Justice, the General Accounting Office, and the Indians to examine all available historical records to determine their relevance to a particular controversy and then to go through exactly the same records a few months later to determine their bearing upon the claims of another tribe or upon later claims of the same tribe. If, instead of going over the same records a dozen or a hundred times, a single general and comprehensive survey were made by a fact-finding commission interested in scrutinizing the claims of all tribes, it is probable that at least three-fourths of the time, effort, and fruitless expense which now goes into the handling of Indian claims might be avoided.

### 3. THE CLAIMS COMMISSION AND THE COURT OF CLAIMS

Under present procedures, when complicated cases involving the taking of oral testimony outside of the District of Columbia come before the Court of Claims, it is customary for the court to appoint commissioners or referees to take testimony and analyze the evidence. If, therefore, at this time Congress should do no more than open the Court of Claims to Indian tribes on a nondiscriminatory basis, that court, faced with the accumulated backlog of 80 years, would have to appoint referees or commissioners for each separate Indian case instituted within the next few years. If separate referees or commissioners were appointed for each case, there would be a host of simultaneous demands for access to records of Indian affairs in the General Accounting Office, the Interior Department, and other agencies where such records are kept. The result would be confusion and delay. It is therefore desirable, in the interests of an orderly and expeditious determination of the facts in all the Indian cases, that a single commission be entrusted with the job of fact finding. Such a commission should be appointed by the President with the advice and consent of the Senate, rather than by the Court of Claims.

Your committee would not favor the establishment of a new agency unless the considerations calling for it were overwhelming. It seems perfectly obvious, however, that the five judges of the Court of Claims, unless relieved of their present duties, could not possibly be expected personally to gather and analyze evidence on a very large number of controversies where the available witnesses, many of them non-English-speaking, are scattered over the most inaccessible parts

of the United States. Since it is inevitable, therefore, that the accomplishment of the objectives of this legislation requires the establishment of some fact-finding machinery adapted to the peculiar and complex problem of Indian claims, your committee is of the opinion that such machinery should be specifically established by act of Congress rather than by executive or judicial action.

#### 4. COST OF THE LEGISLATION

It is hardly possible to give any adequate estimate of the total extent of Indian claims that might be found valid under the provisions of the proposed legislation. Nor would it be proper, even if your committee could satisfy itself as to the probable amount of such recoveries, to make a legislative estimate which would, in advance of hearings, impair the freedom of the proposed Indian Claims Commission, the Court of Claims, and the Supreme Court to decide questions of law and fact that may arise under the proposed legislation. It is possible to say, however, that whatever the amount may be to which the Indian tribes are justly entitled, the sooner it is paid the better it will be for the Federal Government, from a financial point of view as well as from the standpoint of national honor.

No Indian claim is ever forgotten until it is heard and decided. Sooner or later all the existing claims, even under the protracted delays of existing procedures, are likely to come to judgment. These claims do not dwindle in amount with the passing of the years. In many cases they grow. And meanwhile the United States spends every year millions of dollars in furnishing the Indians with educational and other services which they could furnish themselves, as do white communities similarly situated, if they had in their control the funds that are rightfully theirs.

Witness after witness has testified, and many investigating bodies of the House, of the Senate, and of nongovernmental research agencies have reported, that the settlement of outstanding Indian claims would lay the basis for a drastic reduction of the annual Federal outlay for the Bureau of Indian Affairs, which, at the present rate, runs to something like \$30,000,000 a year and shows little sign of seriously diminishing during the next half century. If the result of the proposed adjudication of existing claims will be, as your committee confidently expects, to permit a reduction of at least 50 percent in Federal expenditures on Indians during the next 50 years, the total ultimate saving in such expenditures would be in the neighborhood of \$750,000,000, a sum many times the most optimistic estimate made by the Indians of probable recoveries on all existing claims.

While it is neither possible nor appropriate to estimate the total recoveries under the proposed legislation, it is possible to eliminate some of the fantastic misrepresentations that are made from time to time concerning the amount of anticipated recoveries on all Indian claims.

For one thing, it must be pointed out that asserted claims are generally, in Indian litigation as in most other branches of litigation, far in excess of probable recoveries. Statistics compiled on the basis of claims thus far allowed indicate that judgments have averaged less than 2 percent of the face value of the claims.

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In the second place, it must be noted that there is nothing novel or revolutionary in the adjudication of Indian claims. This process has continued for a good many years, during which time approximately forty out of eighty or a hundred existing tribes have had some or all of their claims adjudicated. It is probable that the Indian claims on which the Congress has already passed jurisdictional acts are, on the whole, the more meritorious and substantial claims. The total of actual cash recoveries allowed in approximately 135 cases decided by the Court of Claims since its establishment in 1855 is in the neighborhood of \$43,000,000. And these funds have been used generally in such a way as to minimize or eliminate Federal gratuity appropriations for such tribes as the Klamath, the Wind River Shoshone, and the New York Indians.

A third misconception concerning the financial consequences of general claims legislation is the idea that such legislation would require the Federal Government to buy all the land of the United States from the Indians. This is far from the fact. Records made available to your committee indicate that about 95 percent of the land that has been brought under the control of the Federal Government from 1776 to the present day has been acquired by open sale and agreement from the Indian tribes. It is only the exceptional, rather than the normal, case that presents the situation of land taken by the United States without compensation fixed by formal agreement.

Finally, forgetting the large administrative savings which would be effected by a settlement of Indian claims, even if it were true that the sums required to meet existing obligations to Indian tribes should turn out to be somewhat larger than the rate of actual recoveries in the past would suggest, your committee believe that this is hardly a relevant consideration in determining the propriety of the proposed legislation. If the Government could save some millions of dollars by refusing to pay its just debts to its Indian citizens and by continuing to refuse them access to the courts for the enforcement of obligations that the Federal Government freely assumed, it could save even more by denying its white citizens access to the Court of Claims. But nobody has yet suggested that the Government of the United States should balance its budget by defaulting on its outstanding obligations to its white citizens and denying them access to the courts. Why should we do this to our Indian citizenry? How shall we answer the question put by the Colville and Okanogan Indians of Washington some years ago:

We have also been told that you have said that our claim is too large. We have never put any price on our lands, or on the rights you took away from us without our consent. All we have asked, all we now ask is that the matter be settled; that you permit your Court of Claims to decide whatever it is just for you to pay us. Are you not willing to pay that; are you not willing to pay whatever you justly owe; whether it is big or little? We are told that you are the head of the wealthiest nation in the whole world; that the United States is a benevolent nation, that has given hundreds of thousands of dollars—great sums that the poor Indian cannot comprehend, to the poor people across the ocean in the countries where the great World War was fought, and where our own sons fought, bled, and died, fighting shoulder to shoulder with your own sons. Whatever your courts may decide and fix upon as the amount justly due us for the lands and rights taken from us will be as but a leaf from the great tree of your wealth; it will be but as a small twig from the branch that you broke off and gave away. Is not the heart that gives away big enough to move you to pay the just debt, be it little or big, that you owe to us poor Indians?

"An Indian pays his debts before he gives a potlatch."

## I. ANALYSIS OF THE PROVISIONS OF THE BILL

✓ *Indian Claims Commission*

The bill provides for the creation, for a period not exceeding 10 years, of an Indian Claims Commission of three men, to be chosen by the President and confirmed by the Senate. Not more than two shall be members of the same political party. Your committee hopes that at least one member of the Commission will be an Indian, if an Indian of suitable qualifications is available. Such an appointment would help to instill confidence on the part of Indian litigants in the impartial character of the Commission. An Indian member of the Commission would be expected to establish his own disinterestedness by waiving all rights to participate in any tribal judgment against the United States.

*Jurisdiction*

In order that the decisions reached under the proposed legislation shall have finality it is essential that the jurisdiction to hear claims which is vested in the Commission be broad enough to include all possible claims. If any class of claims is omitted, we may be sure that sooner or later that omission will lead to appeals for new special jurisdictional acts. And if the class of cases omitted is one which the Congress has in the past declared to be worthy of a hearing, in one or more jurisdictional acts, it is probable that future Congresses will likewise grant a hearing to such claims, and the chief purpose of the present bill, to dispose of the Indian claims problem with finality, will have been defeated. Accordingly, your committee has thought it wise to be most explicit in setting out all the classes of cases—even though they may be mutually overlapping—which have heretofore received congressional consideration in the form of special jurisdictional acts. The bill accordingly requires that all cases in each of these categories be presented to the Commission within 5 years or forever waived. Incidentally, it should be noted that the question of the merits of any case is left to the Commission and the courts, and, of course, the final authority to appropriate funds in accordance with Commission or court findings is the prerogative of the Congress.

Six categories of cases, all recognized in past jurisdictional acts, are specified in the statement of the Commission's jurisdiction: (1) claims arising under the Constitution, laws, and treaties of the United States, and Executive orders of the President; (2) claims with respect to which the claimant would be entitled to redress in a court of the United States were the United States subject to a suit; (3) claims founded upon fraud, duress, unconscionable consideration or mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by a court of equity; (4) claims arising from breach of duty by an officer or agent of the United States; (5) claims arising from the taking by the United States, whether by a treaty or otherwise, of lands owned or occupied by claimant without the payment of compensation therefor; and (6) claims of whatever nature which would arise on a basis of fair and honorable dealings, even though not recognized by any existing rule of law or equity.

The first classification, *supra*, represents strictly legal claims arising under the Constitution, laws, treaties, and Executive orders, against which the United States may assert all legal defenses.

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The second classification permits suit against the United States on any claim cognizable in the courts of the United States against a private citizen. It thus does away with the immunity of the Government from suit and renounces the dishonored fiction that "the King can do no wrong." This is consistent with other statutes permitting suits against the United States on contract claims.

The third classification permits the Commission to consider cases based on fraud, duress, unconscionable consideration, mutual or unilateral mistake of fact or of law. No self-respecting nation can object to such a remedy. It is intended that this provision shall also permit the Commission to reject defenses predicated on similar offenses, such as settlements based on duress and unconscionable consideration. This type of situation is illustrated by *Klamath and Moadoc Tribes v. United States* (296 U. S. 244; 304 U. S. 119). There the United States, after having by treaty agreed upon the boundaries of the Klamath Reservation, took some 87,000 acres of unallotted Klamath land to aid in the construction of a military road, etc. The Congress then, without any agreement with the Indians, appropriated the sum of \$108,750 in payment for this land and required that before distribution of this sum the Indians should execute a release of all claims against the United States, which was done. In a subsequent suit by the Indians for the true value of the land the United States Supreme Court held that while the consideration was plainly inadequate and unconscionable, the Court could not go behind the release, and that if the "plaintiffs are to have additional compensation, it must be through legislation dealing with the merits or authorizing effective judicial determination." In response to this suggestion from the Court, Congress, by new legislation, directed the Court to consider the claim without regard to the release. When the Court was thus free to do justice, a judgment of over \$5,000,000 was rendered in favor of the Indians. Under the pending bill the Commission would likewise be free to go behind defenses frowned upon in equity.

The fourth classification places upon the United States the obligation to respond for damages occasioned by any officer or agent of the United States while acting in the apparent scope of his duty. This is the modern view with respect to the liability of nongovernmental entities, and would impose no improper liability on the United States. The bill would thus permit suits on tort claims, as would be permitted to other citizens by H. R. 181, recently reported favorably by the Committee on the Judiciary.

The fifth classification will permit Indian tribes to sue for just compensation for lands taken from them under the guise of an unratified treaty or otherwise without compensation. There are a number of cases where certain tribes after entering into a treaty ceding their lands were asked to move off from the land in question, which they did, only to find that while they surrendered their land, the United States failed to ratify the treaty or pay them compensation therefor.

With respect to all five of the above classifications the bill directs the Commission to give effect to all offsets and counter-claims which would be allowed in suits brought in the Court of Claims by non-Indians under section 145 of the Judicial Code (36 Stat. 1136; 28 U. S. C., sec. 250), as amended. The bill thus establishes the principle

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of equality of treatment as between Indian and all other citizens. This provision is a great improvement upon the utterly inconsistent and irrational provisions for set-off contained in many special jurisdictional acts. Some of those acts provide simply for set-off of payments upon the instant claim asserted, others allow for set-off of counterclaims, as in the act founding the Creek claims, May 24, 1924 (43 Stat. 139). Generally in the case of jurisdictional acts for the Five Civilized Tribes the Congress has made no provision with respect to offsetting gratuitous expenditures, whereas in acts affecting other tribes Congress has often required the deduction of gratuitous expenditures made for such tribes, even though such expenditures were opposed by the tribes concerned and often were primarily for the benefit of the Government. The only fair solution, which is the one provided in the bill, is to allow the Government the same set-offs as is allowed against other citizens bringing suits in the Court of Claims.

The sixth classification, *supra*, permits Indian tribes to assert any claim which would arise on a basis of fair and honorable dealings, even though not recognized by any existing rule of law or equity. This extension of jurisdiction is believed to be justified by reason of the fact that we have always treated the Indian tribes as non sui juris and have set ourselves up as their guardians. In this relationship many claims, not strictly legal, but meritorious in character have developed, which the Congress has recognized in a few special jurisdictional acts (e. g., Tlingit and Haida Claims Act of 1935 (49 Stat. 388), as amended by the acts of June 5, 1942 (56 Stat. 543), and June 4, 1945 (Public, No. 70, 79th Cong., 1st sess.)). As a protection to the Government, however, in this class of cases, the bill provides that if an award should be made based solely on unfair or dishonorable dealings on the part of the United States, not otherwise actionable in law or equity, the Commission is authorized to deduct gratuities previously given the claimant by the United States. Since no other statute permits the United States to set off gratuities against non-Indian claimants, it cannot be urged that the United States is not amply protected.

#### *Transfer of pending cases*

The bill provides that any tribal suit which has already been instituted in the Court of Claims (or the institution of which has already been authorized by Congress) may upon motion of the claimant be transferred to the Commission. Your committee feels that claimants who have gone to the trouble of securing special jurisdictional legislation authorizing suit in the Court of Claims should be permitted, if they desire, to avail themselves of this general statute, but should not be required to transfer their claims to the Commission unless they so desired. Where substantial work has been done on a case in the Court of Claims the applicant may not desire to transfer the case to what is essentially a tribal subordinate to that court.

#### *Effect of Commission decisions*

Under the bill, findings of fact by the proposed Indian Claims Commission would be final. The Commission, however, would be

bound on all legal Claims and the appropriate provisions of the Court of Claims, upon the process of certification should and most economical fact-finding agencies.

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#### *Future claims*

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#### *Defense of suits*

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bound on all legal questions to follow the decisions of the Court of Claims and the Supreme Court of the United States. The bill makes appropriate provision for review of legal questions by the Court of Claims, upon certification by the Claims Commission, or through the process of certiorari, and for Supreme Court review of legal decisions of the Court of Claims by certification or certiorari. This arrangement should avoid any duplication of labor and should result in the most economical and expeditious determination of the facts by a fact-finding agency geared to that specific job.

It is expected that an impartial determination of the facts will in many, if not in most, cases eliminate the need for further legal proceedings by showing either that there is no basis whatever for recovery on the part of a given tribe or that such a recovery, if indicated, does not involve any controverted legal principles.

When the report of the Commission determining any claimant is entitled to recover has been filed with Congress, it is expected that such report will be treated as a final judgment and will be paid in like manner as are judgments of the Court of Claims.

#### *Future claims*

As respects claims accruing after its adoption this bill confers jurisdiction on the Court of Claims to determine and adjudicate any tribal claim of a character which would be cognizable in the Court of Claims if the claimant were not an Indian tribe. In such cases the claimants are to be entitled to recover in the same manner, to the same extent, and subject to the same conditions and limitations, and the United States shall be entitled to the same defenses, both at law and in equity, and to the same offsets, counterclaims, and demands, as in cases brought in the Court of Claims by non-Indians under section 145 of the Judicial Code (36 Stat. 1136; 28 U. S. C., sec. 250), as amended.

#### *Defense of suits*

The Attorney General is to represent the United States before the Commission, and is given authority with the approval of the Commission to compromise any claim presented to the Commission. The terms of such compromise may conceivably involve nonpecuniary compensation allowable under law, such as the award of special hunting and fishing rights in public lands.

#### *Repeals*

Section 25 provides for a pro tanto repeal of any existing provision of law, except that existing provisions of law authorizing suits in the Court of Claims by particular tribes governing the conduct or determination of such suits shall continue to apply to any case in the Court of Claims which is not transferred to the Commission. By section 11, if a case is transferred to the Commission from the Court of Claims, all provisions in the special jurisdictional act relating to the jurisdiction of the court, any cause of action or any special measure of damages are, unless formally waived by the claimant, made equally applicable to proceedings before the Commission.

*Reports of Departments on bill*

The report of the Department of the Interior on the original draft of this legislation, which has been amended to include substantially all of the Department's suggestions, reads as follows:

DEPARTMENT OF THE INTERIOR,  
Washington 25, D. C., June 11, 1945.

HON. HENRY M. JACKSON,  
Chairman, Committee on Indian Affairs,  
House of Representatives.

MY DEAR MR. JACKSON: Reference is made to your request for reports on H. R. 1198 and H. R. 1341, bills to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes.

The bills are virtually identical with one exception. Section 3 of H. R. 1198 contains a provision that at least one member of the Commission shall be a duly enrolled member of some recognized tribe or band of Indians. No comparable provision appears in H. R. 1341.

I strongly favor the purpose of these bills, but believe that they need amendment in several particulars. A draft indicating the suggested revisions is enclosed. I recommend that these revisions be incorporated in the bills, and that one or the other of them be enacted.

This Department has repeatedly urged the creation of an Indian Claims Commission for the purpose of achieving a prompt, final, and just disposition of all outstanding Indian tribal claims against the Government. Both of these bills provide for such a body. The proposed Commission, to be composed of three Commissioners appointed by the President, with the advice and consent of the Senate, would be given broad powers to hear and determine all claims of every nature against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States, including Alaska. The bills provide that the Commission shall receive claims for a period of 5 years and that its work shall be completed within 10 years after its first meeting.

The reasons which make the creation of an Indian Claims Commission important may be discussed under three major headings: (1) The necessity for prompt and just disposition of Indian claims; (2) the inadequacy of the present method of disposing of such claims; and (3) the remedy offered by the procedures proposed in H. R. 1198 and H. R. 1341.

Investigators of Indian affairs and successive Commissioners have insisted that the Government's administration of Indian affairs is partially frustrated so long as the tribes have claims against the Government which they believe to be just and which the Government is not squarely facing. The Meriam study of the problem of Indian administration (1923) expressly finds that—

"The existence of these claims is a serious impediment to progress. The Indians look forward to getting vast sums from these claims; thus, the facts regarding their economic future are uncertain. They will hardly knuckle down to work while they still hope the Government will pay what they believe is due them" (p. 19).

"\* \* \* The expectation of large awards making all members of the tribe wealthy, the disturbing influence of outside agitators seeking personal emoluments and the conviction in the Indian mind that justice is being denied, renders extremely difficult any cooperation between the Government and its Indian wards" (p. 805).

"At the hearings held in 1930 by the subcommittee of the Senate Committee on Indian Affairs for the purpose of investigating the delays in the prosecution of Indian claims, the settlement of these claims was accepted by the Senators as a fundamental need. (See Survey of Conditions of the Indians in the United States, pt. 25, hearings, 72d Cong., 1st sess., at p. 13409 et seq.)

The present method of handling these claims promises no solution. It only aggravates the situation, since it postpones the settlements almost indefinitely. In the meantime, the substance of the claimants is wasted and the Government is put to heavy expense. The results frequently are disappointment, and unjustified defeat even of meritorious claims. The defects of the present system can best be demonstrated by an analysis of its several processes.

The first step, and perhaps the most disheartening of all the various labors in prosecuting such a claim, is the work of obtaining from the Congress the necessary jurisdictional act. At every session the Congress is confronted by several

scores of jurisdictional bills, each presenting peculiar and complicated problems and factual situations. Many are reintroduced session after session, despite disregard by the committees, defeat, and even veto by the President, and regardless of whether the claims are meritorious or not. Admittedly, political considerations are responsible for the enactment of some of these bills. The result is that before a jurisdictional act is obtained many years may be, and frequently are, consumed in agitation, propaganda, and even lobbying. Obviously the cost in time and money of this repetitious process is enormous.

Further waste attendant upon the system is the enactment of jurisdictional bills which can or do bring to the claimants little or no benefit. These grow out of the fact that the Congress is necessarily concerned with matters of more import to the Nation and is compelled to pass upon claims of this nature without having detailed, responsible, impartial advice. A great many claims based on alleged fraud, duress, or mistake of fact, have been dismissed by the Court of Claims for technical lack of jurisdiction. That court repeatedly has held that the stereotyped language frequently employed in these jurisdictional acts, "all claims arising under any treaty," did not permit consideration of claims attacking the validity of the treaty rather than relying on its terms, such as claims based on inadequate consideration for a treaty cession (*Otoe and Missouri Indians v. United States*, 52 C. Cls. 424); claims based on mistake and misrepresentation as to the acreage ceded by a treaty (*Sisseton and Wahpeton Indians v. United States*, 58 C. Cls. 302), claims for the value of land ceded without consideration and because of duress (*Creek Nation v. United States*, 63 C. Cls. 270), and claims for proceeds of the sale of land because of inability to understand the words of the treaty (*Osage Tribe of Indians v. United States*, 66 C. Cls. 64). See also *Klamath and Moadoc, etc., Indians v. United States*, 81 C. Cls. 79, where a substantial judgment was subsequently obtained after specific waiver by Congress of the "release" embodied in an agreement with the Indians (85 C. Cls. 451, affirmed 304 U. S. 119).

One deplorable result is the lack of finality attending dismissal of a case by the Court of Claims on technical legal grounds without consideration of the claim on its merits. The Congress constantly is being petitioned for new or amended jurisdictional acts for the benefit of claimants whose cases have thus been dismissed by the Court of Claims.

Nor are the unsatisfactory features of the present system limited to jurisdictional enactments subsequently found to be inadequate. The separate preparation of each case for trial involves an inordinate amount of work, including much duplication of research, which neither the attorneys nor the Government agencies are equipped to handle efficiently and with dispatch. The practice is for the Department of Justice, upon receipt of the tribe's petition after its filing in the Court of Claims, to send copies of the petition to the Department of the Interior and to the General Accounting Office with a request for all available information on the subject. Inevitably a great deal of time, even years, is consumed in preparing the required reports in the piecemeal manner. Particularly is this true in the General Accounting Office where much of the information necessary to a proper consideration of the claims is contained in a single, unduplicated series of records.

The Indian Claims Commission, proposed to be established by H. R. 1198 and H. R. 1341, is designed to end this largely futile waste of time and money by providing for a comprehensive examination and final determination of all those claims which merit settlement. It will result in an ultimate saving to the Government even though it may cost, during the few years of its existence, more in direct Federal outlay than the present method. Further it will result in a substantial improvement in the Government's present unsatisfactory relations with the Indians in this respect.

In addition, the Commission would be given jurisdiction over so-called moral claims as well as over claims strictly legal in nature. This authority would overcome the defect in the present system under which many of the claims of the Indians are precluded from a hearing on their merits on technical legal grounds, even though the claims may be such as would challenge the conscience of a court of equity.

One outstanding feature of the proposed Indian Claims Commission, as it would be established by the pending bills, is the provision for final disposition of claims. I have pointed out in considerable detail the deplorable weaknesses in this respect of the present system of handling Indian claims. Under the pending bills the determinations of the Commission would be subject to judicial review as to matters of law. Once the reviewing process had been completed, the determinations

would be reported to the Congress, would have the effect of a final judgment of the Court of Claims, and would be paid in like manner. Rejected claims, or claims not presented within the 5-year period allowed for this purpose, would be forever barred.

The endless petitioning of the Congress for jurisdictional acts to authorize litigation in the Court of Claims; the frustration and disappointment over refusal by that court, on technical grounds of "lack of jurisdiction", to hear cases based on fraud, duress, mistake of fact, or other equities involving the validity of treaties or agreements; and the inevitable return of the claimants to the Congress for a broader jurisdictional act to permit consideration of the merits of the claim—these weaknesses of the present system which are so costly in time and material resources to the Government as well as to the claimants, would be eliminated by the establishment of the proposed Commission, because it would have power to consider the merits of all existing Indian tribal claims and to render what would be, in effect, a final judgment, binding upon the parties.

I cannot urge too strongly upon the Congress the desirability of favorably considering the proposals embodied in H. R. 1198 and H. R. 1341, with the amendments indicated by the attached draft. In this draft the recommended amendments are designated through the use of the familiar strike-out-and-italicize procedure, and are explained in justifications at the end of each section or subdivision. While the draft is based on H. R. 1198, the suggested amendments are equally applicable to H. R. 1341. The page and line references, however, may be slightly different.

In view of the desire you have expressed to have the views of the Department on these bills made available at the earliest possible date, and in view of the fact that hearings on these bills are now in progress, this report is being submitted to you in advance of its transmittal to the Bureau of the Budget for consideration by that agency. Accordingly, no commitment can be made as to whether the recommendations contained in this report are in accord with the program of the President.

Sincerely yours,

HAROLD L. ICKES,  
*Secretary of the Interior.*

The report of the Department of Justice on the original draft of this legislation, which has been amended to include substantially all of the Department's suggestions, reads as follows:

HON. HENRY M. JACKSON,  
*Chairman, Committee on Indian Affairs,  
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This will refer to your request for my views with respect to the bills (H. R. 1198 and H. R. 1341) to create an Indian Claims Commission. These bills are identical and my reference and comment are applicable to both of them.

The bill would establish an Indian Claims Commission as an independent agency in the executive branch of the Government to hear and determine "all claims of every nature whatsoever against the United States on behalf of any Indian tribe, band, or other identifiable group of Indians." The jurisdiction to be conferred on the Commission would embrace not only claims of a legal or equitable nature, but also those claims which are based solely on moral or ethical grounds and which are not ordinarily justiciable in a court. The Commission would be required to file in writing its final determination with respect to each claim presented to it for consideration. This final determination would include its findings of the facts upon which its conclusions are based; a statement whether there is legal ground for relief and, if so, the amount thereof granted, and if there be no legal ground for relief, whether there is any moral obligation upon the Government for relief of the claimant and, if so, the amount of appropriation required to meet such moral obligation; and the amount of any legal offsets or counter-claims, if any. After making such a determination the Commission would be required promptly to submit to the Congress its report. The report of the Commission must contain the final determination of the Commission, the disallowed objections if any, and a statement of how each Commissioner voted upon the final determination of the claim. When the report of the Commission has been filed with the Congress, such report would have the effect of a final judgment and would be paid in the same manner as judgments of the Court of Claims.

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In recent years there have been presented to the Congress several proposals for the establishment of a Commission to hear and determine all types of claims—legal, equitable, and moral—which the various Indian tribes may assert against the United States. Apparently the fundamental concept underlying those proposals is that they would provide a method for the disposition of certain claims which cannot be ordinarily considered by judicial tribunals and the determination of which would depend upon vaguely defined principles of moral philosophy and fair dealings. The basic purpose of the bill is in keeping with this concept. The prompt and final disposition of all claims of Indian tribes against the United States is, of course, greatly to be desired, but whether the plan proposed should be adopted is a question of policy as to which I prefer not to make any suggestions. Doubtless hundreds of claims will be filed with the Commission most of which will probably be based upon moral considerations. Very large sums of money will be required if these claims are to any appreciable extent to be recognized. I, therefore, take the liberty of saying that before giving serious consideration to the adoption of a plan, such as proposed in the bill, the Congress should realize that huge sums of money amounting in all probability to many millions of dollars must be appropriated in order to satisfy the Indian claimants. However, if the proposal is to receive the favorable consideration of Congress, it is believed that some amendments are desirable.

(1) The bill provides in section 2 that "no claim shall be excluded from consideration on the ground (1) that it has become barred by law or any rule of law \* \* \*. This provision might be interpreted to permit a claimant to sue again upon a claim which has already been adjudicated, or upon a claim which has been satisfied by compromise or settlement. It is even possible that this language might be interpreted to mean that a claimant would be entitled to file with the Commission a claim for an additional recovery upon a claim which he had successfully prosecuted in the Court of Claims. It is assumed that the language was not intended to have any such meaning. It is, therefore, suggested that in line 19, page 2, after the word "laches" and before the semicolon, the following be added: "but no claim that has been heretofore adjudicated or settled may be presented to the Commission unless it be presented as a moral claim".

(2) The bill would provide that when the report of the Commission determining any claimant to be entitled to recover has been filed with the Congress, such report would have the effect of a final judgment. This provision would make the Commission virtually a court with the power to determine claims based both upon legal and moral grounds rather than a fact-finding body as an aid to Congress. In view of the vague basis upon which many of the claims presented to the Commission would be predicated the question is raised of whether or not the recognition of them should not rest finally with the Congress. The provision making the findings of the Commission binding upon Congress would constitute a surrender by Congress of its very necessary prerogative to sift and control this unusual type of claim against the Government. It is believed, therefore, that the bill should be amended by striking therefrom subsection a, section 20 (lines 2 to 6, p. 10).

(3) The bill seems to make no provision under which the Commission would be required to offset against the amount found due any sum expended gratuitously by the United States for the benefit of the claimant. By the act of August 12, 1935 (49 Stat. 571, 596, 25 U. S. C. 475a), the Congress has declared as a matter of policy, that the Court of Claims shall offset against the amount of any judgment awarded to an Indian tribe all sums expended gratuitously by the United States for the benefit of that tribe. Under the provisions of the bill, the Indian Claims Commission would replace the Court of Claims as the body determining the liability of the United States. It would seem that the Congress would desire to adhere to the declared policy expressed in the act of August 12, 1935, supra, which is evidently based upon the ideal that the gratuitous expenditure represents a substitute for money which would have been expended from tribal funds had the amount claimed in the suit been standing to the credit of the tribe at the time of the expenditure. It is also worth noting, I think, that with respect to moral claims of the tribes there is the further ground that the expenditure by the United States was based on moral considerations and not on a legal obligation.

(4) The bill provides that within 60 days after the filing of the determination by the Commission, either the Government or the claimant shall have the right to appeal to the Supreme Court of the United States on all questions of law. This provision appears to be an unjustifiable deviation from the policy established by the act of February 13, 1925 (43 Stat. 939), which provides that judgments of

the Court of Claims shall be reviewable by writ of certiorari only. In view of the fact that the Indian Claims Commission is to be substituted for the Court of Claims in Indian claims cases, it would appear advisable that this same policy be embodied in the present bill and that review of the determination of the Commission on questions of law be by writ of certiorari rather than by appeal.

I think the question should also be raised whether a review of the cases heard by the Commission on questions of law should not be by the Court of Claims rather than the Supreme Court. The Supreme Court should be called upon to decide only legal questions of importance having application generally. However, claimants should have an opportunity for a court of law to review the action taken by the Commission even though the questions of law may not be of such importance as to justify a decision by the Supreme Court. It is, therefore, suggested that a review of questions of law by a writ of certiorari from the Court of Claims be considered.

I have been advised by the Director of the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

FRANCIS BIDDLE, *Attorney General.*

JUNE 25, 1945.

The Legislature of the State of Oklahoma submitted the following resolution adopted on April 26, 1945, which is made a part of this report:

A RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES OF AMERICA TO SPEEDILY ENACT LEGISLATION TO CREATE AN INDIAN CLAIMS COMMISSION FOR THE SPECIAL PURPOSE OF CONSIDERING, ADJUSTING, AND SETTLING INDIAN CLAIMS AGAINST THE GOVERNMENT

Whereas for many years Indian tribal claims involving millions upon millions of dollars have been prosecuted against the United States Government without satisfactory results to either the Government or to the Indians, and until these claims are settled or adjusted, they will continue to be prosecuted at an enormous expense to both the Government and the Indian tribes; and

Whereas the administration of Indian Affairs in the United States is being continually hamstrung because of these pending claims, which involve the broad proposition of Government guardianship over its Indian wards, and not until said claims have been settled or adjusted, may it be reasonably expected that this obstacle will be leveled; and

Whereas the basis of these claims emanate from solemn treaties entered into between the United States and many of the Indian tribes, and at this time when our Nation is fighting to maintain national and international integrity, it is well to lay a proper predicate at home for carrying out solemn obligations in order that the example might well be followed all over the world; and

Whereas the two major political parties in their respective platforms in 1940, advocated and recommended that some effective legislation be enacted for the purpose of settling and disposing of Indian claims. The Democratic platform providing as follows:

"We favor and pledge the enactment of legislation creating an Indian Claims Commission for the special purpose of entertaining and investigating claims presented by Indian groups, bands, and tribes, in order that our Indian citizens may have their claims against the Government considered, adjusted, and finally settled at the earliest possible date."

And the Republican platform provided as follows:

"We pledge an immediate and final settlement of all Indian claims between the Government and the Indian citizenship of the Nation;" and

Whereas the passage of such proposed legislation will keep faith with such pledges; and

Whereas the present procedure for handling Indian claims is inadequate, expensive, and unsatisfactory and in all likelihood the Court of Claims will be overburdened and cluttered with claims arising out of the present war; and

Whereas the Honorable W. G. Stigler, Congressman from the Second District of Oklahoma, has introduced in the House of Representatives, House bill No. 1198, the provisions of which are in keeping with the foregoing pledge of the major political parties; and

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CREATING AN INDIAN CLAIMS COMMISSION

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Whereas the enactment of such a bill will provide a feasible and expeditious method for disposing of Indian claims against the United States: Now, therefore be it

*Resolved by the State Senate of the State of Oklahoma, the House of Representatives of the said State concurring therein, That the Congress of the United States be and it is hereby memorialized to speedily enact legislation to accomplish these purposes in keeping with the foregoing pledges; be it further*

*Resolved, That a copy of this resolution be furnished each Member of the Oklahoma delegation in Congress, and the chairman of the Committee on Indian Affairs of the House of Representatives of the United States, and of the Senate of the United States, and the Commissioner of Indian Affairs, and the Secretary of the Interior.*

Passed the senate the 23d day of April 1945.

DWIGHT LEONARD,  
*Acting President of the Senate.*

Passed the house of representatives the 26th day of April 1945.

H. I. HINDS,  
*Speaker of the House of Representatives.*

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