

SCHWABE COLL

Wetumka, Oklahoma
March 28, 1946

Honorable Henry M. Jackson, Chr.,
House Indian Affairs Committee,
House Office Building,
Washington, D. C.

Dear Mr. Chairman:

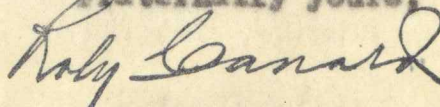
First, I desire to extend and express my appreciation to you and your committee members, on behalf of my people, (The Creek Tribe of Indians, in Oklahoma) for the work and untiring effort you put forth in perfecting the Bill (H. R. 4497) to create an Indian Claims Commission.

This is a most important and favorable proposed legislation insofar as the Creek Nation is concerned, as it is primarily designed to right a continuing wrong to my Christian people as well as other Indian citizens for which no possible justification can be asserted.

As the Principal Chief of the Creek Nation, I am in favor of having the enactment of such a bill or 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.

I understand that the Indian Claims Commission Bill is due to come up on the floor of the House during the first week in April, THEREFORE, I respectfully request and urge you to do what you can to get the support of Members of Congress, and give it most active and favorable support for the passage of this bill, and on behalf of my Christian people in Oklahoma and others.

Fraternally yours,



Roly Canard, Principal Chief,
Creek Nation.

RC:10

STATEMENT WITH RESPECT TO THE CLAIMS
OF THE CREEK NATION AGAINST THE UNITED STATES

- - - - -

The Creek Nation of Indians has many claims against the United States which must be settled before the affairs of the tribe can be closed. Many of these claims arose out of the administration of Creek affairs by the United States during the period beginning with the year 1898, when the United States assumed full control over the property and affairs of the Creek Nation. Other claims arose prior to the year 1898, under the terms of treaties between the Creek Nation and the United States. Some of these claims are for lands, or their value, others are for annuities, and others are for damages for losses sustained by the tribe through the action of the United States.

An endeavor was made to settle these claims through the Courts. Congress passed a special jurisdictional act, approved May 24, 1924, 43 Stat. 139, authorizing the Court of Claims to adjudicate the legal and equitable claims of the Creek Nation arising out of treaties and agreements, and Acts of Congress dealing with Indian affairs.

Some fifteen suits were filed under this act, and one is still pending (unclaimed money case). Two of these suits resulted in judgments in favor of the Creek Nation, and netted the tribe around \$400,000.00. This money remains in the Treasury of the United States to the credit of the Creek Tribe of Indians. The other cases were dismissed for various technical legal reasons, and some were decided against the Creek Nation on the merits.

Experience with this litigation has led us to the conclusion that the settlement of these Indian claims can not satisfactorily be made through the Courts, for the reason that Courts are bound by technical rules of law and evidence which are inflexible. Many of the claims of the Indians are based upon purely moral considerations and are barred by these rules of law. For instance, a general release of claims has been inserted by the United States in Indian treaties, and secured without consideration. The Courts would be bound to hold the Indians to this release and dismiss a claim covered by it, rather than waive the bar of the release and do justice to the claim of the Indians. Furthermore, long delays were also experienced in getting to trial in these cases, and the litigation was involved and expensive.

The Creek jurisdictional act was narrow in its terms and did not give the courts power to settle the Creek claims on a purely moral and just basis. The Court, therefore, could not give due consideration to these claims and decide many of them upon what was right and just from the standpoint of the Indian tribe. Many claims were barred by general releases in treaties, inserted without consideration to the Indians.

Under the present law authorizing the Courts to offset gratuities in favor of the United States against the legal and equitable claims of the Indians, the United States has a distinct advantage over the Indians. As gratuity payments were made by the United States in furthering their policies toward Indian tribes, and were made without hope of return, these payments could not form the basis for a legal and equitable claim against the tribes. Thus the United States is given the right to set up its moral claims against the Indian tribes in these cases, whereas the tribes are not permitted to set up their moral claims against the United States, but are limited strictly to the presentation of legal and equitable claims. Had the Indians been permitted to present their moral claims

to the Courts, the Government's gratuity offsets would have been rightly considered.

Therefore, the Creek Nation feels that an Indian Claims Commission should be established by Congress to settle finally these Indian Claims, and given authority to settle them upon moral considerations, so that justice may rightly be done from the standpoint of the Indian tribes. The rules of this Commission could be made flexible enough to permit it to waive aside all technical consideration and get down to the heart of these claims. The procedure could be simple and inexpensive, and settlements could be expeditiously made.

The Creek Nation recommends this form of procedure to the House Committee on Indian Affairs. It believes that these claims should be determined solely upon their merits with due consideration to what is just and right to the Indian tribe, and weighing what the United States gained and what the tribe lost in each transaction. Settlements of these claims should be made without regard to the present needs of the living members of the tribe. A reasonable time limit should be fixed for the presentation of these claims before the Indian Claims Commission.

Some of the claims of the Creek Nation remaining unsettled are set forth, as follows:

1. The Fort Jackson treaty claim, growing out of the War of 1812, and the Creek treaty of 1814, under which the United States acquired a large amount of lands belonging to the Creek Nation without the payment of any money consideration.
2. The Alabama reservations claim arising out of the transactions surrounding the Creek treaty of 1832.
3. The Creek Seminole boundary line claim, involving about 2,000 acres of Creek land, which the United States gave to the Seminole Nation, without payment of any consideration to the Creek Nation therefor.
4. The claim for a large amount of Creek money lost to the Creek Nation under an Act of Congress passed in 1889.
5. The Creek town-lot frauds claim arising under the Curtis Act and the original Creek Agreement.
6. The Creek river beds case arising out of the Creek Agreement, and involving the loss of the lands in the beds of rivers running through the Creek Nation.
7. The Creek erroneous enrollment case, arising out of the Creek Agreement, in which the Creek Nation lost lands allotted by the United States to certain known erroneous enrollees, placed on the final rolls of the Creek tribe.
8. The Railroad reservation case under which the railroads took Creek lands for station reservations and have never used them for that purpose.
9. An accounting for funds of the Creek Nation disbursed by the United States without specific authority from Congress.
10. Loyal Creek Claims arising out of the Civil War Period and the Original Creek Agreement.
11. Equalization of allotment claim.