

VETO MESSAGE RELATING TO CLAIMS OF CHOCTAW
AND CHICKASAW INDIANS

M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT APPROVAL THE BILL (S. 3165) ENTITLED "AN ACT CONFERRING JURISDICTION UPON THE COURT OF CLAIMS TO HEAR, CONSIDER, AND REPORT UPON A CLAIM OF THE CHOCTAW AND CHICKASAW INDIAN NATIONS OR TRIBES FOR FAIR AND JUST COMPENSATION FOR THE REMAINDER OF THE LEASED DISTRICT LANDS

FEBRUARY 17 (calendar day, FEBRUARY 20), 1931.—Read, referred to the Committee on Indian Affairs, and ordered to be printed

To the Senate:

I return herewith without my approval the bill S. 3165, entitled "An act conferring jurisdiction upon the Court of Claims to hear, consider, and report upon a claim of the Choctaw and Chickasaw Indian Nations or Tribes for fair and just compensation for the remainder of the Leased District lands."

This act undertakes, by indirection, to revive the claims of the Choctaw and Chickasaw Nations for compensation for parts of the so-called "Leased District."

The "Leased Districts" lands of these Indians comprised approximately 7,000,000 acres, lying between the ninety-eighth and one-hundredth degrees of west longitude in the State of Oklahoma. By treaty of June 22, 1855, the United States paid the Choctaws \$600,000 and the Chickasaws \$200,000 for the lease of this land to the United States in perpetuity, as well as for the cession to the United States of their land west of the one-hundredth degree of west longitude. By treaty of April 28, 1866, involving an additional payment of \$300,000 the Choctaws and Chickasaws ceded the Leased District land to the United States, thereby parting with all rights of any kind in that land.

In 1891 Congress appropriated \$2,991,450 to pay the Choctaws and Chickasaws for approximately 2,293,000 acres of the Leased District land granted by Congress to the Cheyennes and the Arapahoes. In signing the general appropriation bill containing this item President Harrison protested at paying for land that already belonged to the Federal Government, saying in a message to Congress that he would have disapproved the bill because of this item were it not for the disastrous consequences that would result from the defeat of the entire appropriation bill. In December, 1892, Congress passed a resolution containing the following provisions:

Provided, however, That neither the passage of the original act of appropriation to pay the Choctaw tribes of Indians for their interest in the lands of the Cheyenne and Arapahoe Reservation, dated March 3, 1891, nor of this resolution shall be held in any way to commit the Government to the payment of any further sum to the Choctaw and Chickasaw Indians for any alleged interest in the remainder of the lands situated in what is commonly known and called the "Leased District."

In 1899 the Court of Claims decided that the title to the remaining acreage of Leased District land was in the United States in trust for the Choctaw and Chickasaw Indians. However, the United States Supreme Court, in its decision of December 10, 1890, reversed the Court of Claims, and held that the treaty of 1866 vested in the United States complete title to the Leased District land.

The present claim of the Choctaw and Chickasaw Indians is for 5,224,346 acres at \$1.25 per acre.

The bill does not send this claim to the Court of Claims for adjudication and settlement, as is normally the case with respect to Indian claims. That would, indeed, be futile, since the Supreme Court has ruled that neither it nor the Court of Claims has jurisdiction to decide that the United States shall pay for lands that it already owns. The result of the bill would seem to be, through a report to Congress from the Court of Claims, to create a lawful aspect to a claim which has no present legal standing.

This case raises a very wide issue of whether we are to undertake revision of treaties entered into in the acquiring of Indian lands during the past 150 years. The values of such lands have obviously increased, and the undertakings entered into at the time the agreements were made may naturally look small in after years. But the increased values have been the result of the efforts of our citizens in building this Nation.

This case would I feel, create a dangerous precedent which could conceivably involve the Government in very large liabilities.

If it is the thought of Congress that justice requires the revision of Indian treaties in the light of subsequent events, then the whole of these treaties should be considered together not by incidental creation of precedents.

It is the purpose of the United States Government to do justice by the Indians and assist them to citizenship and participation in the benefits of our civilization. And in the case of these tribes the Government has during the past 18 years expended a total of approximately \$3,500,000 out of the taxpayers' money and they will in a few years exceed the totals of these claims.

HERBERT HOOVER.

THE WHITE HOUSE, February 18, 1931.

[S. 3165. Seventy-first Congress of the United States of America; at the third session, begun and held at the city of Washington on Monday, the first day of December, one thousand nine hundred and thirty]

An act conferring jurisdiction upon the Court of Claims to hear, consider, and report upon a claim of the Choctaw and Chickasaw Indian Nations or Tribes for fair and just compensation for the remainder of the Leased District lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Court of Claims is hereby authorized and directed to hear and inquire into the claims of the Choctaw and Chickasaw Indian Nations for compensation for the remainder of their "Leased District" land acquired by the United States under article 3 of the treaty of 1866 (14 Stat. L. 769) not including the Cheyenne and Arapahoe lands for which compensation was made to the Choctaw and Chickasaw Nations by the Act of Congress approved March 3, 1891 (26 Stat. L. 989), and to report its findings to Congress notwithstanding the lapse of time or the statute of limitations and irrespective of any former adjudication upon title and ownership, as to whether the consideration paid or agreed to be paid for said remainder of said lands was fair and just, and if not, whether the United States should pay to the Choctaw and Chickasaw Nations additional compensation therefor, and if so, what amount should be so paid. The court shall also hear, examine, and report upon any claims which the United States may have as an offset against said Indian nations but any payment which may have been made by the United States upon such claims against the United States shall not operate as an estoppel but may be pleaded as an offset.

SEC. 2. The claim of the Choctaw and Chickasaw Indian Nations or Tribes shall be forever barred unless presented, as herein provided, within one year after the passage and approval of this act. Said tribes shall be the claimants and the United States shall be the defendant; and said claim shall be verified and filed by the attorneys employed to prosecute the same, under contracts to be approved by the Commissioner of Indian Affairs and the Secretary of the Interior, and said contracts with such Indian tribes shall be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, respectively; and the attorneys employed, as herein provided, may be assisted by the regular tribal attorneys employed under existing law, under the direction of the Secretary of the Interior. The Court of Claims shall include in its report to Congress a finding as to what compensation should be paid the attorneys employed as herein provided, other than the regular tribal attorneys employed under existing law, and such compensation shall not exceed 5 per centum of any amount which may be received by the said Choctaw and Chickasaw Indian Nations or Tribes in payment of such claim.

SEC. 3. There is hereby authorized to be expended, out of any money or moneys now standing to the credit of the Choctaw and Chickasaw Indian Nations or Tribes, in the Treasury of the United States, such sums as may be necessary, not exceeding in the aggregate \$5,000, to be paid, in the discretion of the Secretary of the Interior, for the reimbursement of said attorneys for all proper and necessary expenses incurred by them in the investigation of records and in the preparation, institution, and prosecution of said claim: *Provided*, That the accounts of such attorneys for such expenses shall be submitted to, and approved by, the Secretary of the Interior, and paid under rules and regulations to be prescribed by him: *And provided further*, That any sum so allowed and paid such special attorneys for expenses under this act shall be reimbursable to the credit of the Choctaw and Chickasaw Indian Nations or Tribes, out of any sum of money that may hereafter be paid to such attorneys for legal services rendered in connection with said claim.

SEC. 4. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence; and the departments of the Government shall give access to the attorneys of said Indian nations or tribes to such treaties, papers, correspondence, or records, as may be needed in the preparation, presentation, and conduct of such claim.

SEC. 5. A copy of the petition shall be served upon the Attorney General of the United States and he, or some attorney from the Department of Justice to be designated by him, is hereby directed to appear and defend the interests of the United States.