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Creek Orphan claim.

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CREEK ORPHAN CLAIM.

JUNE 1, 1878.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOOKER, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5074.]

The Committee on Indian Affairs, to whom was referred the petition of the Creek orphans for the amounts due them under the treaty of March 24, 1832, would report as follows:

1st. This claim is based on the second article of the treaty of March 24, 1832. The concluding clause of said second article provides as follows:

And twenty sections shall be selected, under the direction of the President of the United States, for the orphan children of the Creeks, and divided and retained or sold for their benefit, as the President may direct, &c.

In 1872 B. R. Cowen, Acting Secretary of the Interior, submitted a statement to the Speaker of the House of Representatives showing that there was then due to the Creek orphan fund, as shown by the accounts of the department, the sum of \$251,055.97, and the following constituted the respective items aggregating said amount, to wit:

Estimate of appropriation required to restore to the Creek orphans of 1832 certain funds to which they are entitled under the provisions of the treaty with the Creek Nation of March 24, 1832, but illegally invested in stocks or diverted to other purposes.

| | |
|--|-------------|
| For this amount, to restore to the Creek orphans the par value of certain stocks, now held in trust by the United States for said orphans, provided that said stocks shall become the property of the United States..... | \$74,300 00 |
| For this amount, to restore to the Creek orphans the amount taken from their fund, and used for the support of loyal refugees of the Creek people, during the late rebellion..... | 106,799 68 |
| For this amount, to restore to the Creek orphans the amount taken from their fund and used for general purposes of the tribe | 69,956 29 |
| Total | 251,055 97 |

On the 15th day of March, A. D. 1872, W. H. Smith, Assistant Attorney-General, addressed a communication to Hon. C. Delano, Secretary of the Interior, examining this claim in all its relations, and concludes in these words:

My conclusion is that this orphan fund was not released, and that the same is a subsisting legal liability against the United States to its full amount, diminished only by the two payments that have been made to the orphans.

Your committee would further report that, in answer to an inquiry made of the present Commissioner of Indian Affairs for all information

and proof in regard to said Creek orphan claim, he addressed a letter, under date of April 22, 1878, to your committee, which is appended to this report and made a part thereof.

On this testimony your committee are of opinion that said claim is a just and legal one, and therefore report a bill to pay said claim. The item in the account of \$69,956.29, "For this amount, to restore to the Creek orphans the amount taken from their fund and used for general purposes of their tribe," having been used, as the evidence shows, "for the general purposes of the tribe," your committee are of opinion it ought to be paid to the Creek orphans out of the general fund of the Creek Nation.

All of which is respectfully submitted.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 22, 1878.

SIR: I acknowledge the receipt of your letter of the 20th instant, asking to be furnished with all the information in reference to the Creek loyal and Creek orphan claim against the United States on file in this office.

In reply, I have the honor to state that there is no claim in favor of the "loyal Creeks" now before the office for consideration.

The claim in favor of the "Creek orphans" was the subject of three reports to the honorable the Secretary of the Interior, namely, January 24, 1871, April 5, 1872, and March 22, 1878, which latter report, together with an estimate, is now under consideration by the department.

The report of April 5, 1872, contained an estimate for the sum of \$251,055.97, transmitted for the consideration of Congress, and was based upon the decision of Hon. W. H. Smith, Assistant Attorney-General, dated March 15, 1872, and the approval of Hon. C. Delano, Secretary of the Interior, in letter dated March 30, 1872, which decision and letter of the Commissioner, together with estimate submitted by the department under date of the 6th of April, 1872, are fully set forth in Ex. Doc. No. 246, vol. 12 House of Representatives, Forty-second Congress, second session, to which your attention is respectfully invited, said document containing all the information in the possession of the office concerning the claim in question.

Very respectfully,

E. A. HAYT,
Commissioner.

Hon. CHARLES E. HOOKER,
House of Representatives.