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Eastern and Western bands of Cherokee Indians

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EASTERN AND WESTERN BANDS OF CHEROKEE INDIANS.

FEBRUARY 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

R E P O R T :

[To accompany bill H. R. 755.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 755) to refer the claims of Eastern and Western Bands of Cherokee Indians to the Court of Claims, have had the same under consideration, and report :

That in compliance with the provisions of the act of August 7, 1882, (22 Stats., 328) directing the Secretary of the Interior to investigate these claims and report to Congress what, in his opinion, would be an equitable settlement of all matters of dispute between these claimants, respectively, and the United States, arising from or growing out of treaty stipulations or laws of Congress relating thereto, and what sum or sums of money, if any, should, in his opinion, be paid under such settlement, the Secretary caused an investigation of the claims of these two bands of Indians to be made, the report of which was made by him to Congress through the executive department on February 7, 1883, near the close of the Forty-seventh Congress (Senate Ex. Doc. No. 60, second session, Forty-seventh Congress).

Upon that investigation it was found by the Interior Department that there appeared to be due the Eastern Cherokees the sum of \$336,031.85, not including interest, and the sum of \$421,653.68 to be due to the "Old Settlers" or Western Cherokees, not including interest.

That during the first session of the Forty-eighth Congress, on December 17, 1883, the said report of the Secretary of the Interior, so far as it related to the claims of the "Old Settlers" or "Western Cherokees," was again laid before Congress (Senate Ex. Doc. No. 14, first session, Forty-eighth Congress). The Committee on Indian Affairs of the Senate, to whom that report was referred, in pursuance of the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883, referred the claim of the "Old Settlers" or "Western Cherokees," together with the vouchers, papers, proofs, and documents appertaining thereto, to the Court of Claims for the investigation of the facts involved therein, and to report to that committee its finding of the facts relating to said claims.

On the 2d day of February, 1885, the court certified to that committee its finding of facts. The court, however, not being authorized by

the act under which the reference to it was made to determine the questions of law involved in the claim, found the facts *alternatively* as to the amount due from the United States to those claimants contingent upon the construction to be placed upon the treaty stipulations and the several acts of Congress relating to the claim.

The committee find that a proper determination of the law applicable to the facts found by the Court of Claims in the case of the "Old Settlers" or "Western Cherokees" involve the interpretation of several treaties and acts of Congress. And inasmuch as such a determination of those legal questions is important to both the Government and these claimants, and inasmuch as the committee, with its other important duties of a public nature, have not the time to give such legal questions that careful and thorough examination they deserve, the committee are of opinion that said questions ought to be submitted to a competent judicial tribunal for investigation and decision.

The committee also find that the claim of the Cherokee Nation (or Eastern Cherokees) has not been investigated by any judicial tribunal, either as to the facts or the law involved therein. The committee are of the opinion that said claim should receive a judicial investigation of both the law and the facts.

The subcommittee of your committee referred the bill to the honorable Secretary of the Interior for his information, and for his views as to the propriety of its passage, who, on January 26, 1886, returned the same to the committee, expressing his concurrence in the recommendation of the passage of the bill made by the Commissioner of Indian Affairs, and suggesting an amendment which the committee have adopted. The letters of the Secretary of the Interior and Commissioner of Indian Affairs are hereto appended as part of this report.

Therefore, the committee, in order that both of said claims may be properly, speedily, and finally disposed of by competent judicial tribunals, recommend the passage of the bill with the amendments reported thereto.

DEPARTMENT OF THE INTERIOR,
Washington, January 26, 1886.

SIR: In response to the request of Hon. Messrs. Perkins and Peel, subcommittee of the House Committee on Indian Affairs, presented in their letter of 20th instant, inclosing for the views of this Department H. R. 755, of the current session, being a bill "to refer the claims of the Eastern and Western Cherokee Indians to the Court of Claims," I transmit herewith, for the information of said committee, a copy of the report of the Commissioner of Indian Affairs, to whom the subject was referred.

The views of the Commissioner of Indian Affairs, favoring the passage of the bill, are concurred in by me, with suggestion that the bill be amended as indicated on the inclosed copy, by inserting after the word *property*, in line 22 the following words, "and to try and determine all questions that may arise in such causes on behalf of any party thereto, and render final judgment therein."

The inclosures of the letter of the subcommittee are herewith returned.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

HON. OLIN WELLBORN,
Chairman Committee on Indian Affairs, House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 25, 1886.

SIR: I have the honor to acknowledge the receipt, by your informal reference, of a letter, dated the 20th instant, from Hon. B. W. Perkins and S. W. Peel, sub-com-

mittee of the House Committee on Indian Affairs, inclosing H. R. 755, Forty-ninth Congress, first session, being "A bill to refer the claims of the Eastern and Western Bands of Cherokee Indians to the Court of Claims."

The facts relating to these claims are fully set out in the correspondence of this Department, which may be found printed in Senate Executive Documents No. 60, Forty-seventh Congress, second session, and No. 14, Forty-eighth Congress, first session, accompanying the letter referred to.

It will be observed that this Department, under the provisions of an item in the sundry civil act of August 7, 1882, found the sum of \$336,031.85 to be due the Cherokees, and the sum of \$421,653.68 to be due to the "Old Settlers," or "Western Cherokees," exclusive of interest in both cases.

The claim of the "Old Settlers," or "Western Cherokees," was referred by Congress to the Court of Claims (Congressional case No. 14), and it will be observed from the record, a copy of which accompanies the present papers, that the seventh subdivision of the finding of facts is divided into two alternative subdivisions.

In the first of these alternate subdivisions the sum of \$266,994.72 is found to be due these Indians, and in the second the sum of \$4,664.45 is found to be due them, without interest in both cases.

In my opinion both of these claims should be referred to the Court of Claims. There are in both cases controverted questions of fact and law, and the court is the proper tribunal to determine these questions.

I see no objections to the bill, and recommend its passage.

The papers are herewith inclosed.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.