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PROCEEDINGS AND DEBATES OF THE 84th CONGRESS, SECOND SESSION

Indian Claims

EXTENSION OF REMARKS

OF

HON. JOSEPH C. O'MAHONEY

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Thursday, May 17, 1956

Mr. O'MAHONEY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a letter written by Oliver LaFarge, president of the Association on American Indian Affairs, Inc. The letter of the distinguished Mr. LaFarge was printed in the New York Times of Sunday, May 13.

I call attention to it particularly with respect to calendar No. 1748, H. R. 5566, to terminate the existence of the Indian Claims Commission, which has been favorably reported by the Committee on Interior and Insular Affairs. Its passage by the Senate, which I hope will come about at an early date, will do much to permit the settlement of Indian claims.

The letter of Mr. LaFarge is a distinct contribution to an understanding of the measure and its purpose.

There being no objection, the letter to the editor was ordered to be printed in the RECORD, as follows:

INDIAN CLAIMS SUPPORTED—JUSTICE DEPARTMENT CRITICIZED FOR SEEKING REVERSAL OF COURTS

(AUTHOR'S NOTES.—The writer of the following letter is president of the Association on American Indian Affairs, Inc. He is the author of *Laughing Boy* and other books about the Southwest.)

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To the EDITOR OF THE NEW YORK TIMES:

Most Americans know that in past years the Federal Government has violated a series of solemn agreements with our Indian fellow citizens. Few realize, however, that the Indians today face a broken promise as outrageous as any in the Nation's history.

Until 1946 every Indian tribe was barred by law from seeking redress in the courts for wrongs done by the United States. As a measure of justice and humanity Congress then established a special commission to hear and finally determine all unsettled Indian claims. Acting in reliance upon that pledge of fair treatment, the tribes have vigorously prosecuted their claims for 10 years, including, in some cases, the expenditure of thousands of dollars of their own funds for research and legal expenses.

In 1955 the Otoe and Missouri tribe won a significant victory when the Court of Claims, affirming a commission holding, ruled that the Indians were entitled to compensation under the law for the taking by the Government of lands which they formerly possessed under so-called "original Indian title"; that is, ownership based upon exclusive use and occupancy, rather than upon "recognition" by the United States. The Supreme Court subsequently refused to review that decision.

DEFEAT WITHOUT TRIAL

The Department of Justice, which lost the Otoe and Missouri case on the merits, now is asking Congress to reverse the courts through legislation. Specifically, the Department urges that the Indian Claims Commission Act be changed to eliminate original Indian title claims from its coverage. Any such amendment, if adopted, automatically would defeat more than two-thirds of the claims on file without even the formality of a trial.

The chief arguments of the Department in support of its position are not based upon justice or morality, but rather are based on the contention that Congress in 1946 did not intend to compensate Indians for the loss of lands held by original Indian title, and upon the supposed high cost to the Government of righting past wrongs.

The argument as to congressional intent originally was presented in great detail to the Court of Claims, and was flatly rejected by that court in a unanimous, carefully reasoned opinion. The argument as to the alleged excessive cost—purportedly \$5 billion—utilizes not facts but estimates that are demonstrably exaggerated. Actual experience in prior Indian claims litigation indicates that these figures on possible judgments are more than 25 times the amounts which reasonably can be expected.

REPREHENSIBLE ACT

In seeking by false representations to scare Congress into revoking a remedial statute 10 years after it was passed, the actions of the Department of Justice are reprehensible on their face. At least equally disgraceful is the premise that their day in court should be withheld from an impoverished and deserving people because of the supposed high cost of doing justice.

Indians throughout the country took on new hope when the Indian Claims Commission was established. Through recoveries for old injuries, the tribes intended to finance the future social and economic rehabilitation of their members. To destroy these hopes by changing the law at a time when the claims are on the verge of final settlement would be a sorry breach of faith from which the Indians might not recover for generations.

OLIVER LAFARGE,

NEW YORK, May 9, 1956.