Calendar No. 1395

71ST CONGRESS
3D SESSION

S. 873

[Report No. 1347]

IN THE SENATE OF THE UNITED STATES

APRIL 29 (calendar day, APRIL 30), 1929

Mr. WHEELER introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

JANUARY 21 (calendar day, JANUARY 23), 1931

Reported by Mr. WHEELER, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

Conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Flathead Tribe or Nation of Indians of Montana may have against the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That all claims of whatsoever nature which the Flathead Tribe or Nation of Indians of Montana may have against the United States, which have not heretofore been determined by a court of competent jurisdiction, may be submitted to the Court of Claims for determination of the amount, if any, due said Indians from the United States under any treaty or agreement or law of Congress, or for~~

~~the missappropriation of the property or funds of said Indians, or for the failure of the United States to administer the same in conformity with any treaty or agreement with the said Indians~~ *That notwithstanding the limitations of the Act entitled "An Act for the relief of certain nations or tribes of Indians in Montana, Idaho, and Washington," approved March 13, 1924, all claims of whatsoever nature which have not been heretofore determined by a court of competent jurisdiction, which the Flathead, Kootenais, and Upper Pend d'Oreilles Nations or Tribes of Indians, residing on the Flathead Indian Reservation, Montana, may have against the United States (1) for amounts due said Indians from the United States under any treaty, or agreement, or law of Congress, or (2) on account of the appropriation by the United States to its own use or to the use of any other Indian tribe by treaty, Act of Congress, or Executive order, of any land of the said Indians in violation of any rights secured to them by any treaty, agreement, or Act of Congress, or in violation of the rights of said Indians to the exclusive use and occupation by immemorial possession of any land, or (3) on account of the misappropriation of the property or funds of said Indians or the failure of the United States to administer the same in conformity with any treaty or agreement with said Indians: Provided,* That if in any claim submitted hereunder a treaty or an agree-

ment with the Indians be involved, and it be shown that the same has been amended or superseded by an Act or Acts of Congress, the court shall have authority to determine whether such Act or Acts have violated any property right of the claimants, and, if so, to render judgment for the damages resulting therefrom; and jurisdiction is hereby conferred upon said Court of Claims, with the right to appeal to the Supreme Court of the United States by either party, to hear and determine all legal and equitable claims of whatsoever nature which said Indians may have against the United States, it being the intent of this Act to allow the said Court of Claims full and complete authority to adjust and determine all claims submitted hereunder so that the rights, legal and equitable, both of the United States and of said Indians may be fully considered and determined and to render judgment thereon accordingly.

SEC. 2. Any and all claims against the United States within the purview of this Act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of approval of this Act, and ~~such suit shall make the Flathead Tribe or Nation of Indians of Montana party~~ *in any such suit the claimant Indians shall be parties* plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim

or claims under contract with the said ~~Flathead Tribe or Nation of Indians of Montana~~ *Indians* approved by the Commissioner of Indian Affairs and the Secretary of the Interior, and said contract shall be executed in their behalf by a committee chosen by them under the direction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior. 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 attorney or attorneys of said ~~Indian tribe or nation~~ *Indians* to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys of said tribe or nation.

SEC. 3. That if any claim or claims be submitted to said court it shall determine the rights of the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been made by the United States upon any claim so submitted shall not be pleaded as an estoppel but may be pleaded as a set-off in any suit; and the United States shall be allowed credit subsequent to the date of any law, treaty, or agreement under which the claims arise for any sum or sums heretofore paid or expended for the benefit of said Indians, if legally chargeable against that claim.

SEC. 4. That if it be determined by the court that the United States, in violation of the terms and provisions of any

law, treaty, or agreement, has unlawfully appropriated or disposed of any money or other property belonging to the ~~Indians,~~ *said Indians, or has appropriated to its own use or that of any other Indian tribe any lands, title to which was in the said Indians, either by reason of any treaty, agreement, or Act of Congress, or by immemorial possession,* damages therefor shall be confined to the value of the ~~money~~ *money, land,* or other property at the time of such appropriation or disposal, together with interest thereon at 5 per centum per annum from the date thereof; and with reference to all claims which may be the subject matter of the suits herein authorized the decree of the court shall be in full settlement of all damages, if any, committed by the Government of the United States and shall annul and cancel all claim, right, and title of the said ~~Flathead Tribe or Nation of~~ Indians in and to such money or other property.

SEC. 5. That upon the final determination of any suit instituted under this Act, the Court of Claims shall decree such amount or amounts as it may find reasonable to be paid the attorney or attorneys so employed by said ~~Flathead Tribe or Nation of~~ Indians for the services and expenses of said attorneys rendered or incurred subsequent to the date of approval of this Act: *Provided,* That in no case shall the aggregate amounts decreed by said Court of Claims for fees be in excess of the amount or amounts stipulated

in the contract of employment, or in excess of a sum equal to 10 per centum of the amount of recovery against the United States.

SEC. 6. The Court of Claims shall have full authority by proper orders and process to bring in and make parties to such suit any other tribe or band of Indians deemed by it necessary or proper to the final determination of the matters in controversy.

SEC. 7. A copy of the petition shall, in such case, 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 in such case.

SEC. 8. The proceeds of all amounts, if any, recovered for said Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto, and shall draw interest at the rate of 5 per centum per annum from the date of the judgment or decree. The costs incurred in any suit hereunder shall be taxed against the losing party; if against the United States, such costs shall be included in the amount of the judgment or decree and, if against said Indians, shall be paid by the Secretary of the Treasury out of the funds standing to their credit in the Treasury of the United States.

~~SEC. 9. That any and all provisions of an Act for the relief of certain nations or tribes of Indians in Montana, Idaho, and Washington, approved March 13, 1924 (Forty-third Statutes at Large, page 2), in so far only as such provisions are applicable to the Flathead Nation or Tribe of Indians, be, and they hereby are, repealed.~~

SEC. 9. All actual and necessary expenses incurred in the prosecution of any such suit by the attorney or attorneys employed to represent the said Indians shall be paid as they arise by the Secretary of the Treasury out of the funds standing to the credit of said Indians in the Treasury of the United States upon first being allowed by said court and certified by the Secretary of the Interior.

SEC. 10. The provisions of this Act shall not affect any suit heretofore instituted under such Act of Congress, approved March 13, 1924.

Amend the title so as to read: "A bill to supplement the Act entitled 'An Act for the relief of certain nations or tribes of Indians in Montana, Idaho, and Washington,' approved March 13, 1924."

CALENDAR NO. 1395

71ST CONGRESS
3D SESSION

S. 873

[Report No. 1347]

A BILL

Conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Flathead Tribe or Nation of Indians of Montana may have against the United States, and for other purposes.

By Mr. WHEELER

APRIL 29 (calendar day, APRIL 30), 1929
Read twice and referred to the Committee on Indian Affairs

JANUARY 21 (calendar day, JANUARY 23), 1931
Reported with amendments

Passed Feb 11.

Passed the Senate February 11, 1937.

Companion bill, introduced by Congressman O'Conner of Montana pending in House.

75TH CONGRESS
1ST SESSION

S. 641

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 1937

Mr. WHEELER introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

A BILL

Conferring jurisdiction on the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction be, and is hereby, conferred upon the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, notwithstanding anything in the Judicial Code of the United States to the contrary and without regard to the lapse of time, former adjudication, or statutes of limitation, to hear, examine, adjudicate, and render judgment in any and all claims arising under or growing

out of the treaty of Fort Laramie of September 17, 1851 (11 Stat. L. 749), between the Government of the United States and the Assiniboine Indian Nation and other Indian nations therein specified, or any subsequent Act of Congress, treaty, agreement, or Executive order or treaty with any other Indian tribe, or any nation that violates any of the rights of the Assiniboine Indian Nation arising under or growing out of the said treaty, which said Assiniboine Nation or Tribe may have against the United States; and jurisdiction is hereby conferred upon the said court to determine whether or not any provision on such treaty has been violated or breached by the Government of the United States, by Acts of Congress or otherwise and if so to render judgment for the damages resulting therefrom.

SEC. 2. Any and all claims against the United States within the purview of this Act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of the approval of this Act, such suit shall make the Assiniboine Nation or Tribe party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the Assiniboines, approved by the Commissioner of Indian Affairs and the Secretary of the Interior.

Official papers, letters, documents, records, including records of evidence heretofore taken before the Court of Claims pertaining to the subject matter of the suits herein authorized or certified copies thereof, may be used in evidence and the departments of the Government shall give access to the attorney or attorneys of such Indian Nation to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys of said Indian Nation.

SEC. 3. That if any claim or claims be submitted to said court it shall determine the rights of the parties thereto, notwithstanding lapse of time or statutes of limitation or former adjudication and any payment which may have been made by the United States upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a set-off in any suit, and the United States shall be allowed credit subsequent to the date of any Executive order, law, treaty, or agreement under which the claims arise for any sum or sums paid or expended for the benefit of said Indians, prior to March 2, 1927, including gratuities: *Provided, however,* That there shall not be set off or credited any sum or sums of money paid by the United States to or for the benefit of the Assiniboine Indian Nation for lands lying north of the Missouri River; nor any sum or sums of money received by the Assiniboine Nation or members thereof for surplus lands

in the Fort Peck or Fort Belknap Reservations; nor any lands, nor the value thereof allotted to the Assiniboine Nation or members thereof in the Fort Peck or Fort Belknap Reservations, nor any land, nor the value thereof still held undisposed of in those reservations; nor shall there be set off or credited disbursements for agency building and repairs, miscellaneous agency expenses, pay of miscellaneous employees, pay of superintendents and agents, expenses of delegations, or pay of interpreters or Indian police.

SEC. 4. That if it be determined by the court that the United States, in violation of the terms and provisions of any Executive order, law, treaty, or agreement, set forth and referred to in section 1, has unlawfully appropriated or disposed of any money or other property belonging to the Indians, damages therefor shall be confined to the value of the money or other property at the time of such appropriation or disposal, with a minimum value of lands at 93 cents per acre. With reference to all claims which may be the subject matter of the suits herein authorized, the decree of the court shall be in full settlement of all damages, if any, committed by the Government of the United States and shall annul and cancel all claim, right, and title of the said Assiniboine Indians in and to such money or other property.

SEC. 5. Upon final determination of such suit or suits, the Court of Claims shall have jurisdiction to fix and deter-

mine a reasonable fee for services heretofore or hereafter rendered the Assiniboine Nation not to exceed 10 per centum of the recovery, together with all necessary and proper expenses heretofore or hereafter incurred in preparation and prosecution of the claims and suits, to be paid to the attorneys employed by said tribe or nation of Indians, who have heretofore prosecuted and shall hereafter prosecute said claims and suits and the same shall be included in the decree, and shall be paid out of any sum or sums found to be due said tribe.

SEC. 6. A copy of the petition shall, in such case, 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 in such case.

SEC. 7. The proceeds of all amounts, if any, recovered from said Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto, and shall draw interest at the rate of 4 per centum per annum from the date of the judgment or decree, and shall be thereafter subject to appropriation by Congress for the benefit of said Indians, including the purchase of land and building of homes, and no part of said judgment shall be paid out in per-capita payments to said Indians. The costs incurred in any suit hereunder shall

be taxed against the losing party; if against the United States such costs shall be included in the amount of the judgment or decree, and if against said Indians shall be paid by the Secretary of the Treasury out of the funds standing to their credit in the Treasury of the United States: *Provided,* That actual costs necessary to be incurred by the Assiniboine Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Assiniboine Tribe in the Treasury of the United States.

SEC. 8. All laws and parts of laws inconsistent with the provisions of this Act are hereby repealed.

75TH CONGRESS
1ST SESSION

S. 641

A BILL

Conferring jurisdiction on the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

By Mr. WHEELER

JANUARY 11, 1937
Read twice and referred to the Committee on Indian Affairs

PRESIDENT GROS VENTRE TRIBAL COUNCIL
FORT BELKNAP INDIAN RESERVATION
VIA HARLEM MONTANA

PRESIDENT HAS APPROVED BILL AUTHORIZING DISTRIBUTION OF GROS VENTRE

JUDGMENT YOU SHOULD START MAKING UP YOUR ROLL IMMEDIATELY

JOHN G. CARTER

JOSEPH W. BROWN
PRESIDENT BLACKFEET BUSINESS COUNCIL
BLACKFEET AGENCY,
BROWNING MONTANA.

PRESIDENT HAS APPROVED BILL AUTHORIZING DISTRIBUTION OF BLACKFEET

JUDGMENT

JOHN G. CARTER

TELEGRAMS: PREPAY AND CHARGE TO:

JOHN G. CARTER,

TELEPHONE: CLEVELAND 6214.