



Ponca Tribe of Oklahoma

20 White Eagle Drive ♦♦ Ponca City, OK 74601

Dear elected official,

A provision is before Congress, found in H.R. 2786, H.R. 2895, H.R. 2824, and H.R. 3002, that cuts off federal funding for the Cherokee Nation in retribution for the Cherokee Nation's expulsion of Freedman from tribal citizenship. This action is contrary to 100 years of practice and sound public policy as it places a legal dispute before the legislative branch. And worse, no hearing has been held to even allow Cherokee Nation to air its side of the argument.

Historically, one practice has been for parties to bring a negotiated settlement for Congress to ratify. This happened when the Chilocco Indian School was closed and transferred to six tribes in accord with a previously negotiated agreement. See the Act of May 1, 1986, Pub. L. 99-283, 100 Stat. 404, and 52 FR 26747, July 16, 1987. When the Cherokee and Shawnees wanted to separate, they brought a negotiated settlement that was enacted as the "Shawnee Tribe Status Act of 2000," Pub. L. 106-568, title VII, Sec. 702, Dec. 27, 2000, 114 Stat. 2913, 25 U.S.C. § 1041.

But in situations such as the Cherokee Freedman dispute, where the parties cannot negotiate a settlement, Congress has referred the case to courts or deferred to a pending court case. When the Cherokee, Choctaw, and Chickasaw Nations could not agree on the interpretation of the treaty setting the boundaries of the Arkansas riverbed, Congress referred the dispute to federal court. PL 93-195 (HR 5089) December 20, 1973.

When the Delaware/Cherokee, or Delaware Tribe of Indians, attempted to separate from Cherokee Nation in 1996, Cherokee Nation sued the Secretary of Interior and later added the Delaware/Cherokee. Congress could have stepped in and simply recognized the Delaware/Cherokee as an independent tribe. The Tenth Circuit Court of Appeals resolved the case in 2005, *Cherokee Nation v. Norton*, 389 F.3d 1074, the Supreme Court denied certiorari, 126 S.Ct. 333, and Congress was not burdened with this dispute.

When a Cherokee Nation per capita payment was to be made in the late 1880's, disputes arose about entitlement to the payment pursuant to the 1866 treaty.