

78TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 463

AUTHORIZING THE PURCHASE OF CERTAIN INTERESTS IN LANDS AND MINERAL DEPOSITS BY THE UNITED STATES FROM THE CHOCTAW AND CHICKASAW NATIONS OF INDIANS

OCTOBER 12, 1943.—Ordered to be printed

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 1372]

The Committee on Indian Affairs, to whom was referred the bill (S. 1372) to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians, having considered the same, report favorably thereon with the recommendations that the bill do pass with the following amendments:

On page 2, line 15, after the word "Interior" and before the word "such", strike the period and insert a colon and insert the following:

And provided further, That before the said rules and regulations are promulgated they must be submitted to and approved by both the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation.

Amend the title to read as follows:

A bill to fulfill a treaty obligation between the United States and the Choctaw and Chickasaw Nations of Indians by authorizing the purchase of certain interests in lands and mineral deposits by the United States from the said Choctaw and Chickasaw Nations of Indians.

To fully identify the said bill (S. 1372) the following statement is made:

During the Seventy-seventh Congress, S. 2534, a bill to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians, was introduced by the junior Senator from Oklahoma [Mr. Lee] and a companion bill (H. R. 6776) was introduced in the House of Representatives by Congressman Cartwright, who represented the Third Oklahoma District.

The said proposed legislation affects the interests of the members of the Choctaw and Chickasaw Tribes of Indians located in the main in the State of Oklahoma but with many members residing in other States and owing to the fact that the two tribes of Indians number approximately 40,000 members, it was by the committee determined impracticable to expect any considerable number of such Indians to

appear before the Senate committee in Washington with respect to the provisions of the said bill; hence, the committee authorized hearings to be held in the State of Oklahoma at the cities of McAlester, Muskogee, Hugo, Durant, Ardmore, and Oklahoma City, and such hearings were held beginning August 31, 1942, and extending through September 5, 1942.

The testimony submitted in such hearings embraces some 217 pages and is available for the consideration of the Members of the Senate.

Owing to the vast number of persons involved, your Committee on Indian Affairs were unable to give due consideration to such testimony and to make a report during the Seventy-seventh Congress, whereupon a new bill, S. 314, was introduced at the beginning of the present Congress.

On July 6, 1943, your committee held hearings on the bill S. 314, which hearings are published and are likewise available to the Members of the Senate.

Your committee, in considering the provisions of the bill and the testimony taken with respect to its provisions, recommended amendments and in order that the amendments might be more readily presented to and understood by the several members of the two tribes it was considered advisable to incorporate such amendments in the original bill S. 314 and then have the bill, with the amendments, reintroduced for the further consideration of the committee.

The bill as amended by the committee was reintroduced and took the number S. 1372.

Your committee therefore report on S. 1372, which is the identical bill in substance as S. 314 and S. 2534, as hereinbefore referred to.

PURPOSE OF BILL

The purpose of the bill is to fulfill a treaty obligation between the United States and the Choctaw and Chickasaw Nations of Indians as provided in the treaty between the said United States and the said Choctaw-Chickasaw Nations of Indians, known as the Atoka agreement, and the supplemental agreements thereafter made and the laws enacted by the Congress.

The treaty obligations are to be fulfilled by authorizing and directing the Secretary of the Interior to enter into a contract on behalf of the United States for the purchase from the Choctaw and Chickasaw Nations of Indians for all the present right, title, and interest of said Indians in the land and mineral deposits reserved from allotment in accordance with the provisions of section 58 of the act entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw Tribes of Indians, and for other purposes," approved July 1, 1902. The Secretary shall cause such contract to be executed on behalf of said Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, and shall then submit such contract to said Indians for their approval.

If and when such contract has been approved by said Indians, the Secretary shall submit the contract to the Congress for its ratification; provided that the approval of such contract by the said Indians shall be through a special election called and held pursuant to rules and regulations to be promulgated by the said Secretary of the Interior; and provided further, that before the said rules and regulations are promulgated they must be submitted to and approved by both the principal chief of the Choctaw Nation and the governor of the

Chickasaw Nation. Such contract shall not be binding upon any of the parties thereto until it shall have been ratified by the Congress.

The bill provides that upon the approval of such contract by the Congress—

(a) The amount of the purchase price fixed in such contract when appropriated shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasurer of the United States, and thereafter such proceeds shall be distributed to such Indians in pursuance with the terms and provisions of such contract and shall be exempted from attorney fees and other debt contracted prior to the passage and approval of this act; and

(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying all right, title, and interest of said Indians in such lands and mineral deposits to the United States, and thereupon all such right, title, and interest shall vest in the United States.

PROCEDURE SUGGESTED IN BILL

Should the said bill be enacted, then the following steps must be taken:

(1) The Secretary of the Interior must confer with the chief of the Choctaw Nation and with the governor of the Chickasaw Nation with respect to the terms of a contract of purchase and sale of the mineral deposits belonging to such nations of Indians.

Before any other action may be taken a definite contract in writing must be made and signed by the said officials—the Secretary of the Interior, representing the United States Government, and the chief of the Choctaw Nation and the governor of the Chickasaw Nation, representing their respective tribes of Indians.

(2) After the contract is made and signed, such contract must be referred to the enrolled members of the two tribes for their consideration in an election to be held under rules and regulations to be made and promulgated by the Secretary of the Interior.

The bill contains a proviso, that “before the said rules and regulations are promulgated they must be submitted to and approved by both the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation”.

(3) If a majority of the enrolled members of the two nations of Indians vote to approve and ratify the said contract, then such contract shall be certified for the consideration of the Congress.

(4) If and when the Congress approves and ratifies the said contract, then it shall become binding upon both the Government and the said two nations of Indians.

(5) After the contract is made and ratified by all parties in interest, funds may be appropriated and expended as per the provisions of the contract and the law enacted in harmony therewith.

Under the program proposed the Congress will be called upon to supervise the proposed purchase of said coal and asphalt deposits by the enactment of at least three separate laws as follows:

(a) The enabling act as proposed in S. 1372;

(b) The approval and ratification of the contract of purchase; and

(c) The appropriation of funds or the authorization of the issuance of bonds for payment to the members of the said two nations of Indians, as may be provided in the said contract.

VALUE OF MINERAL DEPOSITS

In order to make this report as complete as possible, some information as to the value of the mineral deposits should be given.

The record shows that two separate appraisements have been made—one, the "Cameron appraisement" and the other the "Rutledge appraisement".

Detailed information respecting these two appraisements may be found on pages 22607 to 22632 of the hearings in Part 40 of the Survey of Conditions of the Indians in the United States.

The first survey was made in 1909 and the value placed upon the workable coal deposits, leased and unleased, was \$12,319,039. No survey was made of asphalt deposits.

The second survey was made by Mr. Rutledge in 1918 and a value was placed on the coal deposits, leased and unleased, in the sum of \$14,461,041.73.

The difference in the two estimates of value was due to the fact that the Cameron appraisal covered only coal which he considered workable and the Rutledge appraisal covered all the coal—considered workable or unworkable.

The asphalt deposits have never been considered of great value and the Rutledge appraisement estimates the value at less than \$100,000.

ATOKA TREATY, SUPPLEMENTAL TREATIES AND ACTS OF CONGRESS

The various acts of Congress and treaties with the Choctaws and Chicasaws dealing with the tribal coal and asphalt deposits are as follows:

The act of June 28, 1898 (30 Stat. 495).—Section 29 thereof is commonly called the Atoka agreement. This section provided that the coal and asphalt lands shall remain and be the common property of the two tribes. It further provided for the leasing of the coal and asphalt lands, fixing the royalty at 15 cents a ton on coal and 60 cents a ton on asphalt; it further provided that each lease should contain 960 acres, and be for a term of 30 years, each lessee to have the right to use whatever portion of the surface might be necessary for mining operations. No limit was placed on the number of leases a lessee might acquire. Under this act the Secretary of the Interior assumed control of the tribal coal and asphalt as of July 1, 1898, and has continued to exercise such supervision to date.

The act of July 1, 1902 (32 Stat. 641), commonly called the Choctaw-Chickasaw supplemental agreement. It provided for the sale of the coal and asphalt lands and deposits, which had been leased under the Atoka agreement and all other lands principally valuable for their coal or asphalt deposits. Said sale was to be by tracts of 960 acres each, was to be at public auction for cash within 3 years from September 25, 1902, and was to include both the surface and the coal and asphalt deposits, leased and unleased. No limit was placed on the number of tracts a purchaser might acquire. This act did not provide for an appraisement of the coal deposits.

Act of April 21, 1904 (33 Stat. 189).—Makes appropriations for the Indian Department for the fiscal year of June 30, 1905. This act contained a provision withdrawing the leased coal and asphalt lands and deposits from sale until the further direction of Congress, and authorized the sale upon sealed bids of the unleased coal and asphalt deposits.

Act of April 26, 1906 (34 Stat. 137).—An act providing for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory. Section 13 thereof postpones the sale of both the leased and unleased coal and asphalt lands and deposits until the then existing leases should expire, or until such time as might be otherwise provided by law.

Act of June 21, 1906 (34 Stat. 325).—This act authorized the Secretary of the Interior to appraise the tribal coal deposits and to make practical and exhaustive investigation of the character, extent, and value thereof. It appropriated not exceeding \$50,000 of the tribal funds for that purpose.

Act of February 19, 1912 (37 Stat. 64).—This act authorized the sale at public auction of the surface lands overlying the coal and asphalt deposits leased and unleased, the sale to be by tracts. The act directed the Secretary of the Interior to classify and appraise the lands before offering them for sale, the classification to be into agricultural lands, grazing lands, and town-site property. Each purchaser was limited to 160 acres of agricultural land, 640 acres of grazing land, and 1 acre of town-site land. It also required the Secretary of the Interior to reserve from public sale a sufficient amount of the surface of his coal lease for present and future mining purposes, not to exceed 10 percent of such leased surface, and gave the lessees the right to purchase such surface at the appraised value. Under the act 25 percent of the purchase price was to be paid by the successful bidder at the time of sale, 25 percent additional within 12 months thereafter, and the balance within 2 years from the date of sale. The deferred payments were to bear interest at 5 percent from date of sale.

Act of March 4, 1913 (37 Stat. 1007).—This act gave the Secretary of the Interior authority to add to each then existing lease not to exceed 640 acres of the unleased coal deposits.

Act of February 8, 1918 (40 Stat. 433).—This act authorizes the Secretary of the Interior to sell at public auction the tribal coal and asphalt deposits, leased and unleased, under rules and regulations to be prescribed by him. No purchaser was to be allowed to acquire more than 4 tracts of 960 acres each, except purchasers holding leases approved by the Department. The act further required the Secretary of the Interior to appraise the deposits within 6 months from the date of the passage of the act, and provided that no tract should be sold for less than its appraised value; 20 percent of the purchase price of each tract was to be paid at the time of the sale and the remainder in 4 equal annual payments, the deferred payments bearing interest at 5 percent per annum from date of sale. The act further provided that after the expiration of 1 year after the coal and asphalt deposits had been offered for sale the Secretary of the Interior should again offer such property for sale to the highest bidder at public auction at not less than the appraised value. The act further provided that at the expiration of 6 months thereafter the Secretary might again offer the same property for final sale to the highest bidder at public auction under such terms as he might prescribe and at such valuation, independent of the appraised value, as he may fix.

Act of February 22, 1921 (41 Stat. 1107).—This act authorizes the Secretary of the Interior to reappraise and sell the remainder of the tribal coal and asphalt deposits under rules and regulations to be prescribed by him as to terms and conditions of payment.

AMOUNT OF PROPERTY INVOLVED

Originally there were 445,052 acres within the segregated coal and asphalt area. According to the report of the superintendent of the Five Civilized Tribes Agency for the fiscal year ended June 30, 1938, there are about 379,637.08 acres of the coal and asphalt minerals unsold, valued at \$10,041,029.67.

A suit was filed in the Court of Claims (J-620) by the Choctaw and Chickasaw Nations against the United States claiming more than \$8,000,000 as damages arising out of the delay or failure on the part of the Government to dispose promptly of these coal and asphalt deposits in accordance with earlier agreements with these tribes. The suit has been dismissed for lack of prosecution.

Sections 56 to 63, inclusive, of the act of July 1, 1902, ratifying the supplemental agreement with the Choctaw and Chickasaw Indians (32 Stat. 641), provided that such lands of the Choctaw and Chickasaw Nations as were chiefly valuable for coal and asphalt should be segregated from allotment and sold. Section 59 of the supplemental agreement provided that the lands leased, and unleased, should be sold at public auction for cash within 3 years from the date of final ratification of the agreement and before the dissolution of the tribal government.

LOCATION OF TRIBAL COAL DEPOSITS

The tribal coal deposits are located in six counties of the State—namely, Atoka, Coal, Pittsburg, Latimer, Haskell, and Le Flore. They are under and near the towns and cities of Coalgate, Lehigh, Pittsburg, Savanna, McAlester, Krebs, Blocker, Haileyville, Hartshorne, Adamson, Wilburton, Red Oak, Wister, Howe, Heavener, Coaldale, Poteau, Panama, Rock Island, Bokoshe, Stigler, and McCurtain. In other words, they begin at a point about $1\frac{1}{2}$ miles west of the town of Atoka and extend in a northwesterly direction through the towns of Lehigh and Coalgate, thence in a northeasterly direction a distance of about 140 miles to the Arkansas line, near Coaldale and Rock Island, Okla.

LOCATION OF TRIBAL ASPHALT DEPOSITS

The tribal asphalt deposits are located in three counties of the State. One tract of 960 acres is at the small inland town of Jumbo, about 18 miles northwest of Antlers, in Pushmataha County. Another tract, containing 960 acres is about 4 miles southwest of Sulphur, in Murray County. A third tract, with the same acreage, is about 18 miles northwest of Ardmore in Carter County.

SECRETARY OF THE INTERIOR AUTHORIZED TO RESERVE OIL AND GAS FROM SALE

The provisions of the bill (S. 1372) authorize the Secretary of the Interior to contract to purchase all or any part of the lands and mineral deposits belonging to the said nations of Indians.

Under the present law (Public, No. 374, 75th Cong.) the Secretary of the Interior is authorized to reserve the oil and gas from any sale made by the Government, whenever, in the judgment of the Secretary of the Interior, the best interests of the Indians will be served.

SUPPLEMENTARY AGREEMENT

The second act of Congress dealing with this property was the supplemental agreement, which was also negotiated by representatives of the two tribes and members of the Commission to the Five Civilized Tribes and signed on March 21, 1902. It was confirmed by Congress by the act of July 1, 1902 (32 Stat. 641), and was to become effective when ratified by the Choctaw and Chickasaw people. They ratified it on September 25, 1902, at a special election. It prohibited the further leasing of the coal and asphalt lands and deposits after its ratification. Its coal and asphalt provisions are contained in sections 56 to 63, inclusive, which authorized the Secretary of the Interior to segregate and reserve from allotment all lands in the two Nations principally valuable because of their coal or asphalt deposits, including those leased under the Atoka Agreement, the total segregation not to exceed 500,000 acres. It provided for the sale of the coal and asphalt lands and deposits so segregated, and the payment per capita to members of the two tribes of the proceeds arising from the sale. The leased lands and deposits were to be sold in tracts of 960 acres each; the unleased lands and deposits, in tracts of 640 acres each. The sale was to be a public auction within 3 years from September 25, 1902, and was to include the coal or asphalt deposits, leased and unleased, and the surface lands overlying them. The sale was to be made by a commission of three persons, to be appointed by the President. One was to be a Choctaw by blood, whose appointment should be recommended by the principal chief of the Choctaw Nation, and another a Chickasaw by blood, his appointment to be recommended by the Governor of the Chickasaw Nation. The third member was to be chosen and appointed by the President. No limit was placed on the number of tracts a purchaser might buy. There was no provision for an appraisement of the property. The Government did not sell any of the property under this agreement.

It has now been over 40 years since the making and ratifying of the supplemental agreement which provided for the sale of the coal and asphalt deposits belonging to the Choctaw and Chickasaw Nations of Indians and during these years the expenses connected with the management and administration of said mineral deposits have equaled, approximately, the revenues derived from both the leasing and sale of parts of such deposits.

Because of the facts herein set forth, the members of the two nations of Indians desire to sell their mineral properties and to have the proceeds distributed as may hereafter be agreed upon in the contract to be made, approved by the Indians and thereafter ratified by the Congress.

In connection with this report the letter of the Secretary of the Interior is printed as follows:

DEPARTMENT OF THE INTERIOR,
Washington, September 9, 1942.

HON. ELMER THOMAS,

Chairman, Committee on Indian Affairs, United States Senate.

MY DEAR SENATOR THOMAS: Reference is made to your request for a report on S. 2534, a bill "to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians."

I have no objection to the acquisition by the United States of the segregated mineral deposits of the Choctaw and Chickasaw Nations, but I believe certain amendments to S. 2534 are needed.

There is authority under existing law to permit the sale of these coal and asphalt deposits and to lease developed tracts and undeveloped tracts adjoining and needed in connection with mining on developed tracts; but adverse market conditions resulting from the discovery of large quantities of natural gas and oil in Oklahoma and nearby States have rendered it practically impossible in recent years to dispose of the deposits to the advantage of the Indians. It may be many years before the tribes will benefit to any great extent from the sale or leasing of these deposits. In the meantime, the tribes, and the Government as well, must bear the expense of administering and protecting the property and supervising the few sales and leases that may be consummated. For these reasons, it might be advisable for the Government to buy these deposits and hold them in reserve until a better market develops, but provision should be made for their future disposal under conditions similar to those provided in the general leasing act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181, et seq.), and it also should be provided that all proceeds derived therefrom shall be deposited in the general fund of the Treasury of the United States. A memorandum giving further information concerning the segregated coal and asphalt deposits is attached.

Section 1 of the bill authorizes the negotiation of a contract by the Secretary of the Interior for the purchase of the coal and asphalt deposits and the execution of the contract by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation. It then provides that the contract shall be submitted to Congress for approval. No time limit is fixed for approval by Congress, and therefore an executed contract might remain pending before Congress an unlimited time without receiving the necessary approval to make it effective. In order to avoid this it is suggested that the last two sentences of section 1, beginning at line 3, page 2, be stricken and that the following be substituted:

"The contract shall be executed on behalf of the Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation and shall be submitted to Congress. The contract shall become effective upon the expiration of 60 calendar days after the date on which it is transmitted to Congress, but only if during such 60-day period there has not been passed by the two Houses of Congress a concurrent resolution stating in substance that Congress does not favor the contract. If Congress adjourns sine die before the expiration of the 60-day period, a new 60-day period shall begin on the opening day of the next succeeding regular or special session. A similar rule shall be applicable in the case of subsequent adjournments sine die before the expiration of 60 days."

It is recommended that section 2 of the bill be amended to read as follows:

"Sec. 2. Upon such contract becoming effective—

"(a) The amount of the purchase price fixed in the contract shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasury of the United States and shall be expended only as may be authorized by Congress.

"(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying to the United States all right, title, and interest of said Indians in such lands and mineral deposits as may be covered by the contract and thereupon all right, title, and interest of the Choctaw and Chickasaw Nations shall vest in the United States. The payment provided for herein shall be deemed a full satisfaction of all claims the Choctaw and Chickasaw Nations may have against the United States on account of any withholding from sale, failure to sell, or delay in selling any of the coal and asphalt deposits of said nations."

There should be added to section 3 the following authorization:

"There is also authorized to be appropriated the sum of \$20,000 to be expended under the direction of the Secretary of the Interior, to defray the expenses of negotiating the contract authorized by section 1 hereof, including the making of such appraisal or appraisals as may be deemed necessary."

There should be added to the bill a section to authorize the disposal of any coal and asphalt deposits which may be purchased by the United States. A draft of a section to accomplish this designated section 4 is attached.

The purpose of the changes suggested is obvious and it is believed they would make the bill more practicable and facilitate its administration.

The Bureau of the Budget has advised me "that the enactment of the proposed legislation, either in its present form or if amended as suggested in your proposed report, would not be in accord with the program of the President."

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

AUTHORIZING THE PURCHASE OF CERTAIN INTERESTS IN LANDS AND MINERAL DEPOSITS BY THE UNITED STATES FROM THE CHOCTAW AND CHICKASAW NATIONS OF INDIANS

OCTOBER 12, 1943.—Ordered to be printed

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 1372]

The Committee on Indian Affairs, to whom was referred the bill (S. 1372) to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians, having considered the same, report favorably thereon with the recommendations that the bill do pass with the following amendments:

On page 2, line 15, after the word "Interior" and before the word "such", strike the period and insert a colon and insert the following:

And provided further, That before the said rules and regulations are promulgated they must be submitted to and approved by both the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation.

Amend the title to read as follows:

A bill to fulfill a treaty obligation between the United States and the Choctaw and Chickasaw Nations of Indians by authorizing the purchase of certain interests in lands and mineral deposits by the United States from the said Choctaw and Chickasaw Nations of Indians.

To fully identify the said bill (S. 1372) the following statement is made:

During the Seventy-seventh Congress, S. 2534, a bill to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians, was introduced by the junior Senator from Oklahoma [Mr. Lee] and a companion bill (H. R. 6776) was introduced in the House of Representatives by Congressman Cartwright, who represented the Third Oklahoma District.

The said proposed legislation affects the interests of the members of the Choctaw and Chickasaw Tribes of Indians located in the main in the State of Oklahoma but with many members residing in other States and owing to the fact that the two tribes of Indians number approximately 40,000 members, it was by the committee determined impracticable to expect any considerable number of such Indians to

appear before the Senate committee in Washington with respect to the provisions of the said bill; hence, the committee authorized hearings to be held in the State of Oklahoma at the cities of McAlester, Tuskahoma, Hugo, Durant, Ardmore, and Oklahoma City, and such hearings were held beginning August 31, 1942, and extending through September 5, 1942.

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The bill as amended by the committee was reintroduced and took the number S. 1372.

Your committee therefore report on S. 1372, which is the identical bill in substance as S. 314 and S. 2534, as hereinbefore referred to.

PURPOSE OF BILL

The purpose of the bill is to fulfill a treaty obligation between the United States and the Choctaw and Chickasaw Nations of Indians as provided in the treaty between the said United States and the said Choctaw-Chickasaw Nations of Indians, known as the Atoka agreement, and the supplemental agreements thereafter made and the laws enacted by the Congress.

The treaty obligations are to be fulfilled by authorizing and directing the Secretary of the Interior to enter into a contract on behalf of the United States for the purchase from the Choctaw and Chickasaw Nations of Indians for all the present right, title, and interest of said Indians in the land and mineral deposits reserved from allotment in accordance with the provisions of section 58 of the act entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw Tribes of Indians, and for other purposes," approved July 1, 1902. The Secretary shall cause such contract to be executed on behalf of said Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, and shall then submit such contract to said Indians for their approval.

If and when such contract has been approved by said Indians, the Secretary shall submit the contract to the Congress for its ratification; provided that the approval of such contract by the said Indians shall be through a special election called and held pursuant to rules and regulations to be promulgated by the said Secretary of the Interior; and provided further, that before the said rules and regulations are promulgated they must be submitted to and approved by both the principal chief of the Choctaw Nation and the governor of the

Chickasaw Nation. Such contract shall not be binding upon any of the parties thereto until it shall have been ratified by the Congress.

The bill provides that upon the approval of such contract by the Congress—

(a) The amount of the purchase price fixed in such contract when appropriated shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasurer of the United States, and thereafter such proceeds shall be distributed to such Indians in pursuance with the terms and provisions of such contract and shall be exempted from attorney fees and other debt contracted prior to the passage and approval of this act; and

(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying all right, title, and interest of said Indians in such lands and mineral deposits to the United States, and thereupon all such right, title, and interest shall vest in the United States.

PROCEDURE SUGGESTED IN BILL

Should the said bill be enacted, then the following steps must be taken:

(1) The Secretary of the Interior must confer with the chief of the Choctaw Nation and with the governor of the Chickasaw Nation with respect to the terms of a contract of purchase and sale of the mineral deposits belonging to such nations of Indians.

Before any other action may be taken a definite contract in writing must be made and signed by the said officials—the Secretary of the Interior, representing the United States Government, and the chief of the Choctaw Nation and the governor of the Chickasaw Nation, representing their respective tribes of Indians.

(2) After the contract is made and signed, such contract must be referred to the enrolled members of the two tribes for their consideration in an election to be held under rules and regulations to be made and promulgated by the Secretary of the Interior.

The bill contains a proviso, that “before the said rules and regulations are promulgated they must be submitted to and approved by both the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation”.

(3) If a majority of the enrolled members of the two nations of Indians vote to approve and ratify the said contract, then such contract shall be certified for the consideration of the Congress.

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Under the program proposed the Congress will be called upon to supervise the proposed purchase of said coal and asphalt deposits by the enactment of at least three separate laws as follows:

(a) The enabling act as proposed in S. 1372;

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VALUE OF MINERAL DEPOSITS

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ATOKA TREATY, SUPPLEMENTAL TREATIES AND ACTS OF CONGRESS

The various acts of Congress and treaties with the Choctaws and Chicasaws dealing with the tribal coal and asphalt deposits are as follows:

The act of June 28, 1898 (30 Stat. 495).—Section 29 thereof is commonly called the Atoka agreement. This section provided that the coal and asphalt lands shall remain and be the common property of the two tribes. It further provided for the leasing of the coal and asphalt lands, fixing the royalty at 15 cents a ton on coal and 60 cents a ton on asphalt; it further provided that each lease should contain 960 acres, and be for a term of 30 years, each lessee to have the right to use whatever portion of the surface might be necessary for mining operations. No limit was placed on the number of leases a lessee might acquire. Under this act the Secretary of the Interior assumed control of the tribal coal and asphalt as of July 1, 1898, and has continued to exercise such supervision to date.

The act of July 1, 1902 (32 Stat. 641), commonly called the Choctaw-Chickasaw supplemental agreement. It provided for the sale of the coal and asphalt lands and deposits, which had been leased under the Atoka agreement and all other lands principally valuable for their coal or asphalt deposits. Said sale was to be by tracts of 960 acres each, was to be at public auction for cash within 3 years from September 25, 1902, and was to include both the surface and the coal and asphalt deposits, leased and unleased. No limit was placed on the number of tracts a purchaser might acquire. This act did not provide for an appraisalment of the coal deposits.

Act of April 21, 1904 (33 Stat. 189).—Makes appropriations for the Indian Department for the fiscal year of June 30, 1905. This act contained a provision withdrawing the leased coal and asphalt lands and deposits from sale until the further direction of Congress, and authorized the sale upon sealed bids of the unleased coal and asphalt deposits.

Act of April 26, 1906 (34 Stat. 137).—An act providing for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory. Section 13 thereof postpones the sale of both the leased and unleased coal and asphalt lands and deposits until the then existing leases should expire, or until such time as might be otherwise provided by law.

Act of June 21, 1906 (34 Stat. 325).—This act authorized the Secretary of the Interior to appraise the tribal coal deposits and to make practical and exhaustive investigation of the character, extent, and value thereof. It appropriated not exceeding \$50,000 of the tribal funds for that purpose.

Act of February 19, 1912 (37 Stat. 64).—This act authorized the sale at public auction of the surface lands overlying the coal and asphalt deposits leased and unleased, the sale to be by tracts. The act directed the Secretary of the Interior to classify and appraise the lands before offering them for sale, the classification to be into agricultural lands, grazing lands, and town-site property. Each purchaser was limited to 160 acres of agricultural land, 640 acres of grazing land, and 1 acre of town-site land. It also required the Secretary of the Interior to reserve from public sale a sufficient amount of the surface of his coal lease for present and future mining purposes, not to exceed 10 percent of such leased surface, and gave the lessees the right to purchase such surface at the appraised value. Under the act 25 percent of the purchase price was to be paid by the successful bidder at the time of sale, 25 percent additional within 12 months thereafter, and the balance within 2 years from the date of sale. The deferred payments were to bear interest at 5 percent from date of sale.

Act of March 4, 1913 (37 Stat. 1007).—This act gave the Secretary of the Interior authority to add to each then existing lease not to exceed 640 acres of the unleased coal deposits.

Act of February 8, 1918 (40 Stat. 433).—This act authorizes the Secretary of the Interior to sell at public auction the tribal coal and asphalt deposits, leased and unleased, under rules and regulations to be prescribed by him. No purchaser was to be allowed to acquire more than 4 tracts of 960 acres each, except purchasers holding leases approved by the Department. The act further required the Secretary of the Interior to appraise the deposits within 6 months from the date of the passage of the act, and provided that no tract should be sold for less than its appraised value; 20 percent of the purchase price of each tract was to be paid at the time of the sale and the remainder in 4 equal annual payments, the deferred payments bearing interest at 5 percent per annum from date of sale. The act further provided that after the expiration of 1 year after the coal and asphalt deposits had been offered for sale the Secretary of the Interior should again offer such property for sale to the highest bidder at public auction at not less than the appraised value. The act further provided that at the expiration of 6 months thereafter the Secretary might again offer the same property for final sale to the highest bidder at public auction under such terms as he might prescribe and at such valuation, independent of the appraised value, as he may fix.

Act of February 22, 1921 (41 Stat. 1107).—This act authorizes the Secretary of the Interior to reappraise and sell the remainder of the tribal coal and asphalt deposits under rules and regulations to be prescribed by him as to terms and conditions of payment.

AMOUNT OF PROPERTY INVOLVED

Originally there were 445,052 acres within the segregated coal and asphalt area. According to the report of the superintendent of the Five Civilized Tribes Agency for the fiscal year ended June 30, 1938, there are about 379,637.08 acres of the coal and asphalt minerals unsold, valued at \$10,041,029.67.

A suit was filed in the Court of Claims (J-620) by the Choctaw and Chickasaw Nations against the United States claiming more than \$8,000,000 as damages arising out of the delay or failure on the part of the Government to dispose promptly of these coal and asphalt deposits in accordance with earlier agreements with these tribes. The suit has been dismissed for lack of prosecution.

Sections 56 to 63, inclusive, of the act of July 1, 1902, ratifying the supplemental agreement with the Choctaw and Chickasaw Indians (32 Stat. 641), provided that such lands of the Choctaw and Chickasaw Nations as were chiefly valuable for coal and asphalt should be segregated from allotment and sold. Section 59 of the supplemental agreement provided that the lands leased, and unleased, should be sold at public auction for cash within 3 years from the date of final ratification of the agreement and before the dissolution of the tribal government.

LOCATION OF TRIBAL COAL DEPOSITS

The tribal coal deposits are located in six counties of the State—namely, Atoka, Coal, Pittsburg, Latimer, Haskell, and Le Flore. They are under and near the towns and cities of Coalgate, Lehigh, Pittsburg, Savanna, McAlester, Krebs, Blocker, Haileyville, Hartshorne, Adamson, Wilburton, Red Oak, Wister, Howe, Heavener, Coaldale, Poteau, Panama, Rock Island, Bokoshe, Stigler, and McCurtain. In other words, they begin at a point about 1½ miles west of the town of Atoka and extend in a northwesterly direction through the towns of Lehigh and Coalgate, thence in a northeasterly direction a distance of about 140 miles to the Arkansas line, near Coaldale and Rock Island, Okla.

LOCATION OF TRIBAL ASPHALT DEPOSITS

The tribal asphalt deposits are located in three counties of the State. One tract of 960 acres is at the small inland town of Jumbo, about 18 miles northwest of Antlers, in Pushmataha County. Another tract, containing 960 acres is about 4 miles southwest of Sulphur, in Murray County. A third tract, with the same acreage, is about 18 miles northwest of Ardmore in Carter County.

SECRETARY OF THE INTERIOR AUTHORIZED TO RESERVE OIL AND GAS FROM SALE

The provisions of the bill (S. 1372) authorize the Secretary of the Interior to contract to purchase all or any part of the lands and mineral deposits belonging to the said nations of Indians.

Under the present law (Public, No. 374, 75th Cong.) the Secretary of the Interior is authorized to reserve the oil and gas from any sale made by the Government, whenever, in the judgment of the Secretary of the Interior, the best interests of the Indians will be served.

SUPPLEMENTARY AGREEMENT

The second act of Congress dealing with this property was the supplemental agreement, which was also negotiated by representatives of the two tribes and members of the Commission to the Five Civilized Tribes and signed on March 21, 1902. It was confirmed by Congress by the act of July 1, 1902 (32 Stat. 641), and was to become effective when ratified by the Choctaw and Chickasaw people. They ratified it on September 25, 1902, at a special election. It prohibited the further leasing of the coal and asphalt lands and deposits after its ratification. Its coal and asphalt provisions are contained in sections 56 to 63, inclusive, which authorized the Secretary of the Interior to segregate and reserve from allotment all lands in the two Nations principally valuable because of their coal or asphalt deposits, including those leased under the Atoka Agreement, the total segregation not to exceed 500,000 acres. It provided for the sale of the coal and asphalt lands and deposits so segregated, and the payment per capita to members of the two tribes of the proceeds arising from the sale. The leased lands and deposits were to be sold in tracts of 960 acres each; the unleased lands and deposits, in tracts of 640 acres each. The sale was to be a public auction within 3 years from September 25, 1902, and was to include the coal or asphalt deposits, leased and unleased, and the surface lands overlying them. The sale was to be made by a commission of three persons, to be appointed by the President. One was to be a Choctaw by blood, whose appointment should be recommended by the principal chief of the Choctaw Nation, and another a Chickasaw by blood, his appointment to be recommended by the Governor of the Chickasaw Nation. The third member was to be chosen and appointed by the President. No limit was placed on the number of tracts a purchaser might buy. There was no provision for an appraisalment of the property. The Government did not sell any of the property under this agreement.

It has now been over 40 years since the making and ratifying of the supplemental agreement which provided for the sale of the coal and asphalt deposits belonging to the Choctaw and Chickasaw Nations of Indians and during these years the expenses connected with the management and administration of said mineral deposits have equaled, approximately, the revenues derived from both the leasing and sale of parts of such deposits.

Because of the facts herein set forth, the members of the two nations of Indians desire to sell their mineral properties and to have the proceeds distributed as may hereafter be agreed upon in the contract to be made, approved by the Indians and thereafter ratified by the Congress.

In connection with this report the letter of the Secretary of the Interior is printed as follows:

DEPARTMENT OF THE INTERIOR,
Washington, September 9, 1942.

HON. ELMER THOMAS,
Chairman, Committee on Indian Affairs, United States Senate.

MY DEAR SENATOR THOMAS: Reference is made to your request for a report on S. 2534, a bill "to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians."

I have no objection to the acquisition by the United States of the segregated mineral deposits of the Choctaw and Chickasaw Nations, but I believe certain amendments to S. 2534 are needed.

There is authority under existing law to permit the sale of these coal and asphalt deposits and to lease developed tracts and undeveloped tracts adjoining and needed in connection with mining on developed tracts; but adverse market conditions resulting from the discovery of large quantities of natural gas and oil in Oklahoma and nearby States have rendered it practically impossible in recent years to dispose of the deposits to the advantage of the Indians. It may be many years before the tribes will benefit to any great extent from the sale or leasing of these deposits. In the meantime, the tribes, and the Government as well, must bear the expense of administering and protecting the property and supervising the few sales and leases that may be consummated. For these reasons, it might be advisable for the Government to buy these deposits and hold them in reserve until a better market develops, but provision should be made for their future disposal under conditions similar to those provided in the general leasing act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181, et seq.), and it also should be provided that all proceeds derived therefrom shall be deposited in the general fund of the Treasury of the United States. A memorandum giving further information concerning the segregated coal and asphalt deposits is attached.

Section 1 of the bill authorizes the negotiation of a contract by the Secretary of the Interior for the purchase of the coal and asphalt deposits and the execution of the contract by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation. It then provides that the contract shall be submitted to Congress for approval. No time limit is fixed for approval by Congress, and therefore an executed contract might remain pending before Congress an unlimited time without receiving the necessary approval to make it effective. In order to avoid this it is suggested that the last two sentences of section 1, beginning at line 3, page 2, be stricken and that the following be substituted:

"The contract shall be executed on behalf of the Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation and shall be submitted to Congress. The contract shall become effective upon the expiration of 60 calendar days after the date on which it is transmitted to Congress, but only if during such 60-day period there has not been passed by the two Houses of Congress a concurrent resolution stating in substance that Congress does not favor the contract. If Congress adjourns sine die before the expiration of the 60-day period, a new 60-day period shall begin on the opening day of the next succeeding regular or special session. A similar rule shall be applicable in the case of subsequent adjournments sine die before the expiration of 60 days."

It is recommended that section 2 of the bill be amended to read as follows:

"Sec. 2. Upon such contract becoming effective—

"(a) The amount of the purchase price fixed in the contract shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasury of the United States and shall be expended only as may be authorized by Congress.

"(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying to the United States all right, title, and interest of said Indians in such lands and mineral deposits as may be covered by the contract and thereupon all right, title, and interest of the Choctaw and Chickasaw Nations shall vest in the United States. The payment provided for herein shall be deemed a full satisfaction of all claims the Choctaw and Chickasaw Nations may have against the United States on account of any withholding from sale, failure to sell, or delay in selling any of the coal and asphalt deposits of said nations."

There should be added to section 3 the following authorization:

"There is also authorized to be appropriated the sum of \$20,000 to be expended under the direction of the Secretary of the Interior, to defray the expenses of negotiating the contract authorized by section 1 hereof, including the making of such appraisal or appraisals as may be deemed necessary."

There should be added to the bill a section to authorize the disposal of any coal and asphalt deposits which may be purchased by the United States. A draft of a section to accomplish this designated section 4 is attached.

The purpose of the changes suggested is obvious and it is believed they would make the bill more practicable and facilitate its administration.

The Bureau of the Budget has advised me "that the enactment of the proposed legislation, either in its present form or if amended as suggested in your proposed report, would not be in accord with the program of the President."

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

Page 34 - Alice Mc Scott

SALE OF COAL AND ASPHALT DEPOSITS,
CHOCTAW AND CHICKASAW NATIONS, OKLAHOMA

Page 36 - Myrtle Creason

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

SEVENTY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 314

A BILL TO AUTHORIZE THE PURCHASE OF CERTAIN
INTERESTS IN LANDS AND MINERAL DEPOSITS BY
THE UNITED STATES FROM THE CHOCTAW
AND CHICKASAW NATIONS OF INDIANS

JULY 6, 1943

Printed for the use of the Committee on Indian Affairs



UNITED STATES
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SALE OF COAL AND ASPHALT DEPOSITS. CHOCTAW AND CHICKASAW NATIONS, OKLAHOMA

TUESDAY, JULY 6, 1943

UNITED STATES SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, in room 424, Senate Office Building, Senator Elmer Thomas of Oklahoma, chairman, presiding.

Present: Senators Thomas (chairman), Chavez, Moore, Shipstead, Langer, La Follette, Wheeler, and Wallgren were present either in person or by proxy; and Albert A. Grorud, special assistant to the committee.

Also present: Representative Paul Stewart, of the Third Congressional District, Oklahoma.

Also present: Hon. John Collier, Commissioner of Indian Affairs, and Mr. J. C. McCaskill, Assistant to the Commissioner of Indian Affairs.

Also present: Mr. Ben Dwight, representing the Governor of Oklahoma; Mr. W. A. Durant, principal chief, Choctaw Nation; Mr. Floyd E. Maytubby, governor, Chickasaw Nation; Hon. William G. Stigler, Choctaw national attorney; Hon. Earl Welch, associate justice, Oklahoma Supreme Court; Hon. D. C. McCurtain, Poteau, Okla.; Mr. W. W. Short, president, Choctaw and Chickasaw Confederation; Mrs. Myrtle Creason, secretary, Choctaw and Chickasaw Federation; Lee Welch, Esq., Antlers, Okla.; Mrs. Esther Nash Lewis, Antlers, Okla.; and Mrs. Mary Nash Cameron, Bristow, Okla.

The CHAIRMAN. The committee will be in order. This hearing is to be on Senate bill No. 314, a bill to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians. The reporter will place in the record at this point a copy of the bill and a copy of the Secretary of the Interior's report on a similar bill (S. 2534) in the last Congress.

(S. 314 and the report of the Secretary of the Interior on S. 2534, 77th Cong., are here printed in full as follows:)

[S. 314, 78th Cong., 1st sess.]

A BILL To authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to enter into a contract on behalf of the United States for the purchase from the Choctaw and Chickasaw Nations of Indians in Oklahoma for all the present right, title, and interest of said Indians in the land and mineral deposits reserved from allotment in accordance with the provisions of section 58 of the Act entitled "An Act to ratify and confirm an agree-

ment with the Choctaw and Chickasaw Tribes of Indians, and for other purposes", approved July 1, 1902. The Secretary shall cause such contract to be executed on behalf of said Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, and shall then submit such contract to said Indians for their approval. If and when such contract has been approved by said Indians, the Secretary shall submit the contract to the Congress for its ratification: *Provided*, That the approval of such contract by the said Indians shall be through a special election called and held pursuant to rules and regulations to be promulgated by the said Secretary of the Interior. Such contract shall not be binding upon any of the parties thereto until it shall have been ratified by the Congress.

SEC. 2. Upon the approval of such contract by the Congress—

(a) The amount of the purchase price fixed in such contract when appropriated shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasurer of the United States, and thereafter such money shall be distributed to such Indians on a per capita basis and shall be exempted from attorney fees and other debt contracted prior to the enactment of this Act; and

(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying all right, title, and interest of said Indians in such lands and mineral deposits to the United States, and thereupon all such right, title, and interest shall vest in the United States.

SEC. 3. The appropriation of such sum as may be necessary for making the payments to such Indians pursuant to section 2 (a) of this Act is hereby authorized. There is also authorized to be appropriated the sum of \$20,000 to be expended under the direction of the Secretary of the Interior, to defray the expenses of negotiating the contract and the holding of the election authorized by section 1 hereof, including the making of such appraisal or appraisals as may be deemed necessary.

SEC. 4. The land and mineral deposits when acquired hereunder shall become a part of the public domain subject to the applicable public land mining and mineral leasing laws.

INTERIOR DEPARTMENT,
Washington, September 9, 1942.

HON. ELMER THOMAS,
Chairman, Committee on Indian Affairs,
United States Senate.

MY DEAR SENATOR THOMAS: Reference is made to your request for a report on S. 2534, a bill to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians.

I have no objection to the acquisition by the United States of the segregated mineral deposits of the Choctaw and Chickasaw Nations, but I believe certain amendments to S. 2534 are needed.

There is authority under existing law to permit the sale of these coal and asphalt deposits and to lease developed tracts and undeveloped tracts adjoining and needed in connection with mining on developed tracts; but adverse market conditions resulting from the discovery of large quantities of natural gas and oil in Oklahoma and nearby States have rendered it practically impossible in recent years to dispose of the deposits to the advantage of the Indians. It may be many years before the tribes will benefit to any great extent from the sale or leasing of these deposits. In the meantime, the tribes, and the Government as well, must bear the expense of administering and protecting the property and supervising the few sales and leases that may be consummated. For these reasons, it might be advisable for the Government to buy these deposits and hold them in reserve until a better market develops, but provision should be made for their future disposal under conditions similar to those provided in the general leasing act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181, et seq.) and it also should be provided that all proceeds derived therefrom shall be deposited in the general fund of the Treasury of the United States. A memorandum giving further information concerning the segregated coal and asphalt deposits is attached.

Section 1 of the bill authorizes the negotiation of a contract by the Secretary of the Interior for the purchase of the coal and asphalt deposits and the ex-

execution of the contract by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation. It then provides that the contract shall be submitted to Congress for approval. No time limit is fixed for approval by Congress and therefore an executed contract might remain pending before Congress an unlimited time without receiving the necessary approval to make it effective. In order to avoid this, it is suggested that the last two sentences of section 1, beginning at line 3, page 2, be stricken and that the following be substituted:

"The contract shall be executed on behalf of the Indians by the Principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation and shall be submitted to Congress. The contract shall become effective upon the expiration of 60 calendar days after the date on which it is transmitted to Congress, but only if during such 60-day period there has not been passed by the two houses of Congress a concurrent resolution stating in substance that Congress does not favor the contract. If Congress adjourns sine die before the expiration of the 60-day period, a new 60-day period shall begin on the opening day of the next succeeding regular or special session. A similar rule shall be applicable in the case of subsequent adjournments sine die before the expiration of 60 days."

It is recommended that section 2 of the bill be amended to read as follows:

"SEC. 2. Upon such contract becoming effective—

"(a) The amount of the purchase price fixed in the contract shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasury of the United States and shall be expended only as may be authorized by Congress.

"(b) The Secretary shall cause a proper conveyance to be executed by the Principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation conveying to the United States all right, title and interest of said Indians in such lands and mineral deposits as may be covered by the contract and thereupon all right, title and interest of the Choctaw and Chickasaw Nations shall vest in the United States. The payment provided for herein shall be deemed a full satisfaction of all claims the Choctaw and Chickasaw Nations may have against the United States on account of any withholding from sale, failure to sell or delay in selling any of the coal and asphalt deposits of said nations."

There should be added to section 3 the following authorization:

"There is also authorized to be appropriated the sum of \$20,000 to be expended under the direction of the Secretary of the Interior, to defray the expenses of negotiating the contract authorized by section 1 hereof, including the making of such appraisal or appraisals as may be deemed necessary."

There should be added to the bill a section to authorize the disposal of any coal and asphalt deposits which may be purchased by the United States. A draft of a section to accomplish this designated section 4 is attached.

The purpose of the changes suggested is obvious and it is believed they would make the bill more practicable and facilitate its administration.

The Bureau of the Budget has advised me "that the enactment of the proposed legislation, either in its present form or if amended as suggested in your proposed report, would not be in accord with the program of the President."

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

MEMORANDUM OF INFORMATION RELATING TO A BILL TO AUTHORIZE THE PURCHASE BY THE UNITED STATES OF THE SEGREGATED COAL AND ASPHALT DEPOSITS OF THE CHOCTAW AND CHICKASAW TRIBES

Originally there were 445,052 acres within the segregated coal and asphalt area. According to the report of the Superintendent of the Five Civilized Tribes Agency for the fiscal year ended June 30, 1938, there are about 379,637.08 acres of the coal and asphalt minerals unsold, valued at \$10,041,029.67.

A suit was filed in the Court of Claims (J 620) by the Choctaw and Chickasaw Nations against the United States claiming more than \$8,000,000 as damages arising out of the delay or failure on the part of the Government to dispose promptly of these coal and asphalt deposits in accordance with earlier agreements with these tribes. The suit has been dismissed for lack of prosecution.

Sections 56 to 63, inclusive, of the act of July 1, 1902, ratifying the supplemental agreement with the Choctaw and Chickasaw Indians (32 Stat. 641), provided that such lands of the Choctaw and Chickasaw Nations as were chiefly

valuable for coal and asphalt should be segregated from allotment and sold. Section 53 of the supplemental agreement provided that the lands leased and unleased should be sold at public auction for cash within 3 years from the date of final ratification of the agreement and before the dissolution of the tribal government.

Before the expiration of the 3-year period or the offering of the lands for sale as provided by said section 59, a provision was passed, contained in the appropriation act of April 21, 1904 (33 Stat. 189-209), that all leased lands should be withheld from sale until the further direction of Congress. The act further authorized the sale of the unleased lands and deposits "upon sealed proposals" under regulations to be prescribed by the Secretary of the Interior. The unleased lands and coal and asphalt deposits were duly advertised and offered under sealed bids pursuant to the provisions of the last mentioned act. The bids were opened at various dates from October 3, 1904, to August 7, 1908. All bids were rejected by the Department as being too low.

On December 7, 1905, the Department recommended a draft of legislation to provide for the final disposition of the affairs of the Five Civilized Tribes, section 13 of which provided that all coal and asphalt lands and deposits in the Choctaw and Chickasaw Nations, whether leased or unleased, segregated under, or the sale of which had been authorized by any act of Congress, should be sold at public auction under the direction of the Secretary of the Interior, in bulk or in such parcels as he might determine to be for the best interests of the tribes and under regulations prescribed by him.

This proposed legislation was modified and section 13 of the act of April 26, 1906, was passed reading as follows:

"That all coal and asphalt lands whether leased or unleased, shall be reserved from sale under this act until the existing leases for coal and asphalt lands shall have expired or until such time as may be otherwise provided by law."

By the act of February 13, 1912 (37 Stat. 67), Congress provided for the sale of the surface of the lands within the segregated coal and asphalt area. There was no authority of law for offering the coal and asphalt deposits after the passage of section 13 of the act of April 26, 1906, *supra*, until the passage of the act of February 8, 1918 (40 Stat. 433). Under the later act three public auction sales have been extensively advertised and held; and a fourth such sale was had subsequently to the passage of the act of February 22, 1921 (41 Stat. 1107), which act provided for the reappraisal and reoffering of the deposits for sale. Under these acts 114 tracts, aggregating 88,592.17 acres, of the coal and asphalt deposits, were sold; the aggregate price being approximately \$2,455,389.70. Subsequently the sales of a number of tracts involving approximately 27,000 acres were canceled.

Section 3 of the act of June 19, 1930 (46 Stat. 788), provides as follows:

"That where any tract of said coal and asphalt deposits has been heretofore or may be offered hereafter for sale at two or more public auctions after due advertisement and no sale thereof was made, the Secretary of the Interior may, in his discretion and under such rules and regulations and on such terms and conditions as he may prescribe, sell such tract at either public auction or by private sale at not less than the appraised value: *Provided, however,* That the Secretary of the Interior may, in cases where the tracts remain unsold and the facts are found to justify, cause reappraisements to be made of such tracts and reoffer and sell such tracts either at public auction or private sale at not less than the reappraised value."

All of the unsold tracts have been advertised and offered for sale a number of times. Since the passage of the act of June 19, 1930, *supra*, a few tracts have been sold in particular instances where it appeared to be for the best interests of the Indians to make the sales.

The CHAIRMAN. This bill proposes to authorize the Secretary of the Interior to enter into negotiations with the representatives of the two tribes in an effort to arrive at some contract for the purchase of the coal and asphalt deposits of those tribes. After the negotiations are completed and a contract is arrived at, the bill authorizes signatures, and then the contract shall be presented to the tribesmen, under rules and regulations to be prescribed by the Secretary of the Interior. If the contract is entered into and thereafter ratified or approved by a majority of the members of the two tribes, then the

contract is to be submitted to Congress for its consideration; and if the Congress approve the contract, then the purchase price, whatever it may be, will be authorized to be appropriated and paid out as per the terms of the bill.

Senator Shipstead inquires if it is proposed that the Government shall take over these coal lands. That is the proposal submitted by the bill.

Senator CHAVEZ. Then it is different in that respect from the one we considered last year?

The CHAIRMAN. No; I think the bill we had last year was to the effect that the Secretary should negotiate with the two tribes to see if they could get together. Of course, if they could find a purchaser, it would be much better for all concerned to sell to some private party or corporation or interest; but they have tried to sell the lands for many years and have been unsuccessful in finding a satisfactory purchaser.

Senator CHAVEZ. As to the asphalt feature of the bill, of course, the Government would be the one that would be interested in buying that, too?

The CHAIRMAN. The asphalt deposits are joint with the coal deposits and are considered together, the coal, asphalt deposits, and other mineral deposits. When these lands were disposed of, only surface rights were disposed of, and the mineral rights were reserved to the two tribes.

Senator LANGER. Does that include oil?

Representative STEWART. No; coal and asphalt.

Senator LANGER. Would it include oil if there were oil there.

Representative STEWART. It might.

The CHAIRMAN. We will have to ask some of the witnesses as they appear before us this morning, because I do not have all the information. The fact is that these Indians made a treaty with the Government away back in 1901 or 1902 whereby it was agreed to sell these lands in 3 years, but they have not been sold, and of the income that is received from these lands in the way of royalties it takes practically all to pay the overhead expenses and, as a result, the deposits are being gradually used and dissipated and the Indians are getting no benefit.

This morning we have a representative of the Governor of Oklahoma present, but inasmuch as Congressman Stewart is very busy on his side of the Capitol I will ask the Congressman to make a statement for the benefit of the committee.

STATEMENT OF HON. PAUL STEWART, A REPRESENTATIVE OF THE UNITED STATES FROM THE THIRD DISTRICT OF OKLAHOMA

Representative STEWART. Mr. Chairman and members of the committee, Senator Thomas has defined the provisions of the measure. In 1902 the United States Government entered into a treaty with the Indians reserving to them coal and asphalt lands aggregating somewhere in the neighborhood of 400,000 acres. These lands were to be sold within 3 years, but as yet there have been a number of leases and permits issued that cost practically all of the proceeds of these leased lands, the money being taken up in administering the properties.

This and a few unallotted tracts of land is the only property that these Indians own in common. They have been patient for 40 years. There is enough coal there, I think, to supply the Nation for a hundred years or maybe longer, but much of it is being destroyed by the opening of shafts and the fact that water is running into it, and it is not being utilized to the point where it will be of any advantage, in my opinion, to the Indians as it now stands.

It is our belief that if it is to be held for future generations, the United States Government is more able to stand the expense than these Indians are. It is the only property in the world that they own together. They drove a lot of bad bargains with the United States Government, as we all know. The Choctaws and Chickasaws are not trying to jump from under any of their agreements or treaties. All they want is, after 40 years of patient waiting, for the Government to find a buyer and keep faith with their contract.

Once they had an opportunity of selling this property for \$30,000,000, but a lawyer's fee was involved which prevented further negotiations. I do not remember what year it was when they were offered \$30,000,000.

Mr. COLLIER. That was 1912.

Representative STEWART. We have here this morning a very representative bunch of Indian citizens from Oklahoma. We have Chief Justice Earl Welch; Mr. Lee Welch; Mrs. Lewis and her sister; Miss Creason, secretary of the Choctaw and Chickasaw Confederation; Mr. Short, the president of the organization. There are also present the governor of the Chickasaw Indians and the attorney for the Choctaw Indians; also Mr. Ben Dwight, who has been principal chief of the Choctaws and is now private secretary to Gov. Robert S. Kerr, of Oklahoma. Governor Durant is also present. I think it would be well for me to yield to some one of those who have made this long trip in the interests of this bill and who can give you a better picture than I can. We want to use them before the Committee on Indian Affairs of the House tomorrow.

Senator CHAVEZ. What does the Government intend to do with the property, and what particular department will have control of it?

Representative STEWART. The Government has had control of it for the Indians for 40 years. The Interior Department has control, and I presume that the Interior Department would continue to have control, under the provisions of this bill.

Senator CHAVEZ. They have several land divisions in the Interior Department.

Representative STEWART. This is under the Indian Department.

Senator CHAVEZ. But after they purchase it for the United States Government, will it be under the Indian Department?

Representative STEWART. I would think not. I would think that the Interior Department would possibly set up a fuel department or division. England has done this very thing. The Crown buys all the fuel deposits in the British Empire.

Senator CHAVEZ. Is there any limitation in the bill as to how much the Government is to pay the Indians?

Representative STEWART. No; that is left open upon a question of making an estimate as to the potentialities of the tonnage of materials we have there.

Senator CHAVEZ. What are the Indians to do with the money that they receive?

Representative STEWART. This bill provides that it is to be paid out per capita. Possibly it will be in Government bonds. The original Indians are enrolled. There is a record of them. However, we have a lot of newborns, born since 1906, not enrolled, and there has been considerable difficulty with respect to locating a number of them.

Senator CHAVEZ. I had a communication from a constituent this morning in reference to the bill, and she wants her money.

Representative STEWART. I am pretty sure they would get around to the distribution of it in short order. I am rather of the opinion that the Government would ask them to take bonds at this time. Possibly they would be a lot better off from the proceeds of the bonds.

Senator CHAVEZ. I am agreeable to the Indians trying to liquidate. I hope the bill will pass in such a way that the Interior Department will not have anything more to do with it.

Representative STEWART. They can take care of themselves as well as any of us, anywhere.

Senator CHAVEZ. That is what I think.

Representative STEWART. I will let you pass judgment as they appear before you.

Senator MOORE. Is there a contract or treaty obligation between the Government and these Indian tribes with reference to their property?

Representative STEWART. There is. The agreement was negotiated in 1902 between the Indian tribes and the United States Government.

Senator MOORE. With reference to this property?

Representative STEWART. To dispose of it in 3 years.

Senator MOORE. Would you favor the Government's buying these lands?

Representative STEWART. As a matter of last resort I would say "Yes." It is so gigantic that you cannot find many men with \$30,000,-000 who want to plant it in one proposition.

Senator MOORE. Do you advocate the Government's going into the land business?

Representative STEWART. They are in every other kind of business. This is a sacred, solemn treaty which the Government made with those Indians.

Senator MOORE. Is there a legal or moral obligation?

Representative STEWART. They have received millions of dollars from taxes, many times the values of these coal lands.

Senator LANGER. There is a moral obligation, if not a legal one, because the Government said that if they did not sell in 3 years, the Government would buy the lands. They made that promise to them.

Do you see any objection to putting in a reservation of the oil to the Indians?

Representative STEWART. They want to get out of business. If the Government buys the land, let the Government have the oil. I think that would be a legal question.

Senator LANGER. It is the custom in our State, and has been for 50 years, to reserve all oil rights. We have never discovered oil in North Dakota, but we always make that reservation; and I think it ought to be made here.

Representative STEWART. That is the quite common practice in Oklahoma; but these Indians want to get out of business.

Senator LANGER. It would not do any harm to reserve the oil rights to them, would it?

Representative STEWART. They would still have some undisposed of property in the way of lands which would have to be taken care of in the future.

Senator CHAVEZ. Why not get rid of it all at once?

Representative STEWART. That is my thought in the matter, Senator. There would be no objection to the Government's reserving the oil rights. There is, in all probability, a great oil field lying south and east of this property, and maybe in the property.

Senator CHAVEZ. Is there not, then, a moral obligation to protect the Indian in that right?

Representative STEWART. The Indian in lots of cases does not need much protection. The full-blood does need the arm of the Government around him in many instances, but he gets along far better with his own affairs than lots of the white people do at that.

Senator SHIPSTEAD. Are there undiscovered resources of oil there?

Representative STEWART. The land has had no industrial survey. We know that there are 378,000 acres of coal deposits. There has been no great industrial survey made in that area. That is one of the things we have suffered from.

Senator SHIPSTEAD. It would be hard to determine the value of undiscovered oil.

Representative STEWART. Yes. That is quite true of any land having mineral deposits.

Senator SHIPSTEAD. You do not think you want to reserve any of it for the Indians?

Representative STEWART. I am rather of the opinion that the Indians would rather liquidate. They want to close up their affairs.

Senator MOORE. About how many Indians would participate in the distribution?

Representative STEWART. I would not hazard a guess, because they have been rather prolific in the last few years.

Senator MOORE. They would participate, would they not?

Representative STEWART. It would go back to the original allottees.

Senator LANGER. Senator Thomas had it all figured out the last time we met.

The CHAIRMAN. They claim, in round figures, 6,000 or 7,000 Chickasaws and around 40,000 Choctaws. The Commissioner can answer that more definitely when he makes his statement.

Representative STEWART. In order that those citizens who have come up here from Oklahoma may be heard, I would like to yield the floor to them.

The CHAIRMAN. I understand that the House Committee on Indian Affairs has arranged to hear the delegation tomorrow?

Representative STEWART. Yes; on the companion bill, H. R. 1859.

The CHAIRMAN. Mr. Stewart introduced the same bill in the House. So they will have a chance to be heard by both committees on this one trip.

We have present a representative of the Governor of Oklahoma in the person of former Chief Ben Dwight. We will ask Mr. Dwight to make a statement at this time.

STATEMENT OF BEN DWIGHT, REPRESENTING GOV. ROBERT S. KERR, OF OKLAHOMA

Mr. DWIGHT. My name is Ben Dwight. I am a Choctaw Indian, at the present time on Gov. Robert S. Kerr's staff.

The CHAIRMAN. You were at one time chief of the Choctaw Tribe, were you not?

Mr. DWIGHT. For about 8 years immediately preceding the present chief, Mr. Durant.

At the beginning I would like to submit for the record House Concurrent Resolution No. 16, by the Oklahoma Legislature. I will not read it. I am trying to make my statement as brief as possible. In substance, this statement recognizes the fact that this type of legislation is pending before the Congress, although it does not refer particularly to this bill, and endorses the bill and memorializes the Congress to pass this legislation in the hope that it may go a long way toward finally settling the controversies that have been in existence over a great number of years and will also work toward a proper adjustment of Indian affairs in the State of Oklahoma.

The CHAIRMAN. The memorial will be placed in the record in connection with your statement.

Mr. DWIGHT. Thank you.

(The document referred to and submitted by the witness is as follows:)

[Enrolled]

HOUSE CONCURRENT RESOLUTION No. 16

By Parrish, Irby, Wallace (Oklahoma), Massey, Black, Hussey, and Worthington, of the House, and Neill, of the Senate

A CONCURRENT RESOLUTION MEMORIALIZING THE CONGRESS TO ENACT AND THE PRESIDENT TO APPROVE LEGISLATION AUTHORIZING THE SECRETARY OF THE INTERIOR TO ENTER INTO A CONTRACT WITH THE CHOCTAW AND CHICKASAW TRIBES OF INDIANS IN OKLAHOMA FOR THE PURCHASE BY THE FEDERAL GOVERNMENT OF THE SEGREGATED COAL AND ASPHALT LANDS AND DEPOSITS OF THE SAID TRIBES

WHEREAS in order that Oklahoma statehood might obtain and that the members of the Choctaw and Chickasaw Tribes of Indians in Oklahoma, numbering approximately twenty-seven thousand (27,000) persons, might enjoy the privileges and assume the responsibilities of citizens of the State and Nation, the said Tribes entered into solemn agreements with the Federal Government, providing, in substance, for the liquidation of the tribal governments and the common state of the two tribes; and

WHEREAS those agreements (known as the Atoka and Supplemental Agreements) expressly provided, among other things, that the coal and asphalt lands and deposits of the said tribes would be reserved from allotment in severalty and sold by the Federal Government within three (3) years after the final ratification of the Supplemental Agreement, on July 1, 1902; and that the proceeds of such sale would be distributed among the members of said tribes upon a per capita basis; and

WHEREAS contrary to the intentment and express provisions of said Agreement and through legislative action of the United States Congress and administrative action of the Executive Department of the Federal Government, the greater portion (approximately three hundred and sixty-eight thousand (368,000) acres of said coal and asphalt lands and deposits have been withheld from sale over a period of forty (40) years, at times when this estate could have been capitalized to a considerable advantage to the members of the said tribes; and

WHEREAS because the common estate of the two tribes has not been so liquidated, the said tribes have been compelled to maintain a modified form of tribal government at a continuous and sizable expense; and

WHEREAS at this time it does not appear that aforesaid coal and asphalt lands and deposits can be sold to private interests at anything like a fair consideration; and

WHEREAS the Federal Government has urgent need of coal and asphalt in its prosecution of the war; and

WHEREAS the conservation of natural resources for future generations can better be accomplished by the Federal Government than by the Choctaw and Chickasaw Tribes who have been caused to accept a process of winding up their political autonomy; and

WHEREAS the confusion and contentions that have developed and now exist because of various phases of guardianship of the Federal Government over the Choctaw and Chickasaw Indians and their property, cause continuing and enormous expenditures on the part of both the Federal Government and the said tribes, a large part of which could be eliminated by a readjustment of the status of the common estate of the two tribes; and

WHEREAS there is now pending before the Congress of the United States legislation which would authorize the Secretary of the Interior to negotiate with the Choctaw and Chickasaw Tribes of Indians in Oklahoma for the purchase by the Federal Government of the coal and asphalt lands and deposits of the said tribes: Now, therefore, be it

Resolved by the House of Representatives of the Nineteenth Legislature of the State of Oklahoma (the Senate concurring therein), That the Congress of the United States be memorialized to enact such legislation and that His Excellency the President of the United States, is petitioned to sign and approve said legislation; and be it further

Resolved, That the Chief Clerk of the House of Representatives, upon the passage of this Resolution, shall forward an enrolled copy thereof to each member of the House of Representatives and of the Senate in the United States Congress, to His Excellency the President of the United States and a copy to the Secretary of the Department of the Interior.

Adopted by the House of Representatives the 15th day of March 1943.

Adopted by the Senate the 18th day of March 1943.

HAROLD FREEMAN,

Speaker of the House of Representatives.

JACK NEILL,

Acting President of the Senate.

Correctly enrolled:

J. D. McCARTY,

Chairman of the Committee on Enrolled and Engrossed Bills.

Received 3-20-43 at 9:25 a. m.

F. C. CARTER, *Secretary of State.*

By B. R.

Mr. DWIGHT. Governor Kerr, of Oklahoma, was born in the Choctaw Nation, raised among the Choctaws and Chickasaws and is exceptionally well informed about their affairs. He is mindful, of course, of the fact that this is national legislation, but believes that the special and public problems of a group of people, particularly one as large as the Choctaws and Chickasaws, is of concern to the State as well as the Federal Government, and for that reason, and at my request, he has submitted a statement which I would like to read to this committee in connection with this particular bill, it being addressed to Senator Thomas as chairman of the committee.

The CHAIRMAN. You may proceed.

Mr. DWIGHT (reading):

My attention has been called to Senate bill 314, which you introduced and which, in substance, authorizes the Secretary of the Interior to enter into a contract with the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation for the purchase of the segregated coal and asphalt lands and mineral deposits by the United States from the said Indian nations.

In my judgment, this proposed legislation is extremely meritorious and, if enacted into law, will lay down a proper predicate for an equitable settlement of a long-standing controversy between the Federal Government and the two tribes, as well as contribute immeasurably to a timely readjustment of services to the members of said tribes.

My information is that, under the terms of the supplemental agreement between the two tribes and the Federal Government, and which was approved July 1, 1902, it was agreed that certain land and deposits belonging to the Choctaws and the Chickasaws would be reserved from allotment in severalty with specific provision that said land and mineral deposits would be sold by the Federal Government within 3 years thereafter, and the proceeds from such sale distributed upon a per capita basis among the tribal members. It appears that, of this day in 1943, the two Indian nations are still possessed of approximately 368,000 acres of said segregated coal and asphalt lands and deposits, and that the Choctaws and Chickasaws have continuously been asserting, over this period of years and at a sizable expense to both the Federal Government and the tribes, their claim for damages because said land and mineral deposits were withheld from sale at times when they could have been sold for a consideration far above that which may now be obtained from private interests. Without passing judgment upon the factual elements or legal phases of this claim, it is a matter of general cognizance that this controversy does exist and, in all likelihood, will continue to cause futile expenditures on the part of both the Indians and the Federal Government until it is settled or adjusted. Obviously, the contract contemplated under Senate bill 314 would settle this controversy.

It appears further that it was the intendment of the agreements between the Indians and the Federal Government to liquidate the common estate of the two tribes and wind up the affairs of the Choctaw and Chickasaw Nations in order that the members thereof might take their proper places in all capacities alongside their fellows of other races as Oklahoma citizens. The retention of Indian ownership of the afore-mentioned segregated coal and asphalt lands and deposits causes the maintenance of certain phases of Federal guardianship over the common property of these tribes and collaterally contributes to the continued individual wardship of many Choctaws and Chickasaws who, from all viewpoints, should long ago have been released therefrom. The contract contemplated in Senate bill 314 could well go a long way toward eliminating this obstacle in the path of an appropriate readjustment of the administration of services to Indians of these two tribes.

In meeting these two propositions through the purchase of these mineral lands and deposits, the Federal Government would acquire property of high value for use in the present war emergencies, as well as property which it could well afford to conserve for future generations. Also, through proper capitalization of the proceeds of this sale, the Choctaws and Chickasaws could well evolve a plan of security for their membership—which ipso facto would result in great and continuing economy to the Federal Government.

In view of the above premises I wish to join with those who are urging enactment of Senate bill 314.

That is the statement of Governor Kerr.

I would like to call the committee's attention to this probability in the negotiations that would follow. If this enabling legislation is enacted, permitting the Secretary of the Interior on the one side, representing the Government, and the tribal officials on the other side representing the Choctaws and Chickasaws, to sit down around the table and negotiate an agreement, it might well happen that the contract would carry provisions for a per capita payment or payment in bonds or some other method. I should not attempt to go into detail at this time in suggesting some other method. That can be left to the negotiators. But I could very easily see where some suggestion of an annuity or something of that type for certain of these Indians over a certain age could be provided, which would do two or three things. First, it would settle this long-standing controversy. Mainly, it would take care of and rehabilitate that group of Indians

for whom we, the Indians themselves, and the Government have found no practical method of rehabilitating out of their own money or their own estate. These negotiations may lead the way to where this particular group of people can do something that I believe no other race on the face of the earth has ever done before—provide for the members of the tribes for the rest of their lives, and take away, from a practical point of view, the responsibility of the Government for continued appropriations for rehabilitation in the future. Over a period of years obviously that would be an economic measure.

This proposition is not one of ordinary sale or purchase, or the Government's buying property and going into business. There are a number of elements entering into it that differentiate it from a proposition where the Government would simply step out and buy mineral lands. We have these treaty obligations that the Government unquestionably has not carried out. Unquestionably there should be some equitable settlement of that matter.

Something was said a moment ago about the oil possibilities. Congressman Stewart said that the Choctaws and Chickasaws want to get out of business. They do, as a nation. They want to wind up their affairs as a nation; but I think that oil proposition might well go in as an element in setting the price upon these coal and asphalt lands.

Senator MOORE. May I interrupt you there?

Mr. DWIGHT. Certainly.

Senator MOORE. In the patenting of these lands to individuals, was the oil reserved?

Mr. DWIGHT. In the patenting to the individuals they got lock, stock, and barrel title.

Senator MOORE. Then the Government has no control over that now?

Mr. DWIGHT. Not over the individual allotments. This land is segregated from allotment. My point was that the oil value, whatever it is, should be taken into consideration whenever this contract is being considered.

Senator SHIPSTEAD. Who do you claim has title to whatever oil there is there?

Mr. DWIGHT. The Indians.

Senator MOORE. When they sold this property they sold how much of it?

Mr. DWIGHT. They sold some of the surface and some of the mineral deposits.

Senator MOORE. Did they retain the oil?

Mr. DWIGHT. I think that is a legal question that perhaps can be better answered later.

Gentlemen, I believe that is about all I have to say at this particular time, except that there is perhaps one more thought that I would like to leave with you, and that is this. I believe that the Choctaws and Chickasaws, as well as members of other tribes in Oklahoma, want to do those things that will fit them into the complete responsible citizenship of the State. If this controversy over these coal lands is settled, that will clear many obstacles in the path of making a complete and streamlined adjustment of their program in the State.

I hope that this committee will act favorably upon this bill.

And may I make this suggestion at this time as to a proposed amendment. I suggest that in line 22, on page 2 of the bill, the words "on a per capita basis" should be stricken out and words similar to these inserted: "in pursuance of the terms and provisions of such contract."

That suggested amendment would allow the negotiations to run along on a broader scale and yet take care of a per capita distribution or a bond sale or any other method of distribution.

The CHAIRMAN. We thank you for your statement and for your suggested amendment.

Senator CHAVEZ. I would like to ask a couple of questions.

On page 2 of the bill, line 3, it is provided that [reading]:

The Secretary shall cause such contract to be executed on behalf of said Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, and shall then submit such contract to said Indians for their approval.

Do you not think that a better method would be to submit an unexecuted contract to the Indians? According to the provisions here, the contract is to be signed and then submitted to the Indians. What is your comment on that? I am just asking the question for information.

Mr. DWIGHT. My idea is that it is sufficient, after the contract is signed and entered into between the Secretary and the tribal officials, that it then be submitted for their approval or disapproval. During the negotiations the Indians should have ample opportunity to come before the negotiators and express their opinion and be heard properly. That is my offhand opinion.

Senator CHAVEZ. On line 9 there is another proviso [reading]:

Provided, That the approval of such contract by the said Indians shall be through a special election called and held pursuant to rules and regulations to be promulgated by the said Secretary of the Interior.

Is there any machinery by which the Indians can control their own elections the way they want?

Mr. DWIGHT. That machinery would have to be set up. We have precedents, of course. The Choctaws and Chickasaws had set up their own governments for a hundred years and have had a referendum or two; but at this particular time there is no set method or special machinery ready to go ahead.

Senator CHAVEZ. If the Indians are in a position to liquidate their own business and settle their affairs once and for all, it appears to me that they should not be interfered with by any agency of the Federal Government. Let them settle their own affairs.

Mr. DWIGHT. I believe, in effect, Senator, that that is what would happen, because I think the Secretary of the Interior, or whoever promulgates those rules, would be waited upon by Choctaws and Chickasaws and they would play a part in the fixing of those rules and regulations.

Senator CHAVEZ. With all due deference to the Secretary of the Interior and other Government officials, I still think that it is preferable for the Indians of Oklahoma to have their own election.

Mr. DWIGHT. I believe they would have their own election, under this bill, of course.

Senator CHAVEZ. Yes; but it would be controlled, regulated, and ordered by the Secretary of the Interior under rules and regulations.

Mr. DWIGHT. Under rules and regulations prescribed by the Secretary of the Interior. We must have some medium of setting it up.

Senator CHAVEZ. It appears to me that you, Judge Durant, and many others of the Indians that I know in Oklahoma of the Choctaws and Chickasaws are certainly capable of having an election to determine property rights.

Mr. DWIGHT. I will agree with you that we are capable of doing that. However, I see no objection to this from a practical point of view.

Senator MOORE. This bill provides that the contract shall be submitted for their approval rather than for any consideration of approval or disapproval. That would indicate that it would be a kind of a formal matter.

Representative STEWART. I am rather inclined to agree with the Senator. The Secretary of the Interior is on both sides of the table as regards the Indians. I think the Senator's suggestion would give the Indian a better opportunity to express his own free thoughts and convictions. I am rather inclined to agree with that suggestion.

Senator CHAVEZ. I think it is sound.

Representative STEWART. They could use the machinery of the State and hold an election. The Indian knows how to vote, and he is very careful to vote. There are several here who were elected. They know politics. They taught us white fellows lots about it.

Senator LANGER. Sometime ago a gentleman appeared here who had been chief. I am sorry that he is not here today.

Mr. DWIGHT. I expect that you are referring to Chief W. A. Durant. He is present.

Senator LANGER. Yes. You impressed me very much, Mr. Durant.

Senator CHAVEZ. Does the Senator feel that Judge Durant could hold an election without rules and regulations from Washington?

Senator LANGER. Yes.

The CHAIRMAN. Mr. Collier has to leave for a mission out of town pretty soon, and I would like to have him express his views.

STATEMENT OF JOHN COLLIER, COMMISSIONER OF INDIAN AFFAIRS

Mr. COLLIER. I talked to Secretary Ickes the other day about the bill, and I merely want to convey the information that he favors the bill in principle. In fact, I would say that he would be favorable to everything that Ben Dwight has said to the committee.

Merely for the record and for its effect on the House side, I want to point this out, that the bill does not constitute a commitment of a sum of money. It does not constitute a sale, but only authorizes and directs the negotiation of a contract which would then come back to Congress exactly as though it were a bill and would have to be considered by Congress upon its then merits.

One or two items of information may be of interest to you.

To date since 1899 the yield of coal from this field has been a little over \$5,000,000 in sale and lease. That is over 44 years. Most of that money has gone out in per capita payments. It remains true, however,

that the administrative cost runs along about \$18,000, \$20,000, and \$21,000 a year, occasioned by the attempt to sell and lease the lands to private parties.

I wat to make one suggestion which I prefer to be off the record. The CHAIRMAN. You may make the statement off the record.

(Mr. Collier made a statement which, by direction of the chairman, was not recorded; after which the following proceedings took place:)

MR. COLLIER. On the matter of the reservation of oil rights, the bill as now drawn uses the word "minerals," and that would include oil. If you want the bill to exclude it, then change the language. It will be difficult to arrive at a sale price; it will complicate the negotiations to include oil. On the other hand, not to include oil will leave the situation unsolved and continuing on in Government control for an indefinite number of years to come. It is a toss-up as to which is the more desirable.

That is all I have to say, Mr. Chairman.

Representative STEWART. May I ask you a question? Would it be possible for you to appear before the House committee in the morning?

MR. COLLIER. Unfortunately, I am flying West; but my representatives will be here. Mr. McCaskill has all of the data.

Senator CHAVEZ. The Bureau has studied the asphalt feature of the proposed negotiations, has it not, with reference to values?

MR. COLLIER. Not as much as it needs to be studied. There is a representative of the Geological Survey here today who can answer that. I may say that the General Land Office has suggested a technical amendment to the last paragraph of the bill. It is not adequate as now drawn to make it sure that the public-land leasing laws will effectively control the deposits if the Government buys them. But that can best be explained by the Geological Survey's spokesman.

The CHAIRMAN. It is my interpretation of this bill that it is an enabling act somewhat comparable to what the Congress passes with respect to a territory. In order to admit our own State, for example, Congress passed an enabling act giving the people of the Territory the right to meet in convention and prepare and submit a constitution. An enabling act was passed and the people assembled and prepared a constitution. Then the constitution was presented to the President, but it was not effective until approved by the President. So, as I say, the bill is comparable in a way to an enabling act giving the people the right to form a State. This bill gives them the right to confer with the Secretary to see if they can come to terms with respect to the disposition of property.

Senator LANGER. You had quite a time getting the constitution adopted.

The CHAIRMAN. Well, we got it adopted in due time.

Senator CHAVEZ. You had your own election.

The CHAIRMAN. That is true.

There are quite a few to be heard. I presume, before we hear them, we might hear from the agents of the Government. If there is someone present from the Indian Bureau or the Secretary's office or the Geological Survey, we might hear them at this time.

MR. COLLIER. I find there is no one here from the Geological Survey. There is a representative from the General Land Office who is willing to go into a discussion of the disposal of the lands in the event they are purchased.

The CHAIRMAN. If that is the status, we had better hear evidence first and then take up the technical propositions.

We have present officials of the two tribes, and the chief of the Choctaws and Chickasaws. We will hear Chief Durant at this time.

STATEMENT OF W. A. DURANT, CHIEF OF THE CHOCTAW NATION

The CHAIRMAN. For the record, give your full name, if you will, please.

Mr. DURANT. W. A. Durant.

The CHAIRMAN. Where do you reside?

Mr. DURANT. At the present time I am at Tuskahoma.

The CHAIRMAN. To which of the tribes do you belong?

Mr. DURANT. Choctaw Nation.

The CHAIRMAN. What is your official position at this time?

Mr. DURANT. I am chief of the Choctaw Nation.

The CHAIRMAN. How long have you been chief?

Mr. DURANT. About 7 years, I think; something like that.

The CHAIRMAN. For the record, I would like for you to make a brief statement of your public service, to the tribe and to the State, if you will.

Mr. DURANT. Well, in the beginning of statehood, I was sergeant at arms of the constitutional convention. After the close of that convention and the adoption of the constitution, I was in the legislature, in the house, from my home county, Bryan County, and served in that legislature for 11 years. In the third session of it I was elected speaker of the house and served as speaker in the third session of the Oklahoma Legislature. After that service I was elected each year by the house as Democratic floor leader of the house as long as I served in the house. After I left the legislature I then went into the Commissioner of the Land Office, who employed me as oil and gas agent to lease the State land for oil purposes. I served in that capacity for $5\frac{1}{2}$ years. There is one thing I am proud of. During that period the Commissioner of Land Office made a deposit to the credit of the State of Oklahoma of \$1,000,000 a year, each one of those years, \$1,000,000 in cash, out of that oil, deposited it and credited it to the State during that year. After that service of $5\frac{1}{2}$ years I was then promoted to the secretaryship of the land office and served $5\frac{1}{2}$ years, making my service in the State capitol 22 years.

The CHAIRMAN. Now, you may proceed and give your explanation of this bill and what you think the members of your tribe want done.

Mr. DURANT. Well, this bill is a very simple bill, and it is very plain. It will result, I think, in disposing of this property. I want to correct one impression that Senator Moore had and asked a question about.

Soon after I was appointed chief, my first act as chief of the Choctaw Nation, I came to Congress and I had a bill passed here by Congress, reserving the right to the oil on all the balance of the land we had unsold, but I left the reservation optional with the Secretary of the Interior. I got into a little controversy over it because I had asked them to sell the timberland we had down there that was ready for sale, ready for advertisement, and some of them wanted me to put that reservation on that, and I wouldn't do it, because if I reserved

the oil from that timberland, it would probably destroy this sale, and I wouldn't do it, so we went ahead and sold our timberland, and got the money for it. I did not reserve that oil, but on the land after that, that bill applies today, provided the Secretary of the Interior sees fit to reserve it, and I left it optional with him. The reason I did that was that just at that time there was an oil well brought in right close to Coalgate, right up there about 10 miles away. It appeared to me we were going to have an oil field down there in the Coalgate country. This coal land was segregated. We had a lot of property of that kind down there, so I made that request of Congress through the committee and got that bill passed. Senator Thomas put that bill through for me, and that is a law now, but it is optional with the Secretary of the Interior whether it is reserved from sale or not.

Senator CHAVEZ. Under the provisions of this bill, if this bill is enacted, it will supersede the old law.

Mr. DURANT. Well, if it does, if this supersedes it, why, that is all right. We are trying to sell that property; just like I say, with that timberland I was criticized by some of my people for not reserving that oil under that timberland. I said, "It is too great a gamble to take." I just went ahead and sold it.

Senator MOORE. If these lands have a speculative value for oil, that would greatly add to the value of the property?

Mr. DURANT. Oh, yes.

Senator LANGER. How close is the nearest oil well to this place?

Mr. DURANT. Well, to this coal land, some of it is right close to it. Centrahoma is about 10 miles from Coalgate, which you will notice on that map over there.

Senator LANGER. They are producing oil 10 miles away from it?

Mr. DURANT. It goes clear up to McAlester and east over toward Poteau. This oil is scattered all the way through there, and they have gas, but, of course, the Secretary of Interior has the authority to develop that now.

Senator LANGER. Did you ever try to get some oil company to come in there and develop it?

Mr. DURANT. No, we couldn't, because it covers too great an area. It would take an awful lot of money, several million dollars, to develop that property. Just look at the map over there and see how big an area it is.

Senator LANGER. It would not cost several million dollars to sink one well.

Mr. DURANT. Well, you are talking about wildcatting now. There is a chance there for us to make some money out of it, but we haven't done it so far. I don't think the Secretary has reserved a bit of that oil.

Senator MOORE. If it were sold, as you suggested—the timberlands—were sold, including the oil, whether the Government bought it or whether some individual enterprise bought it, it would add enormously to the attractiveness of the sale.

Mr. DURANT. Why certainly.

Senator MOORE. By what percentage would you say?

Mr. DURANT. Well, it would just be guesswork. It would depend on how much money somebody wanted to speculate.

Senator MOORE. It would not be an unusual thing if they speculated on it to the extent of several million dollars.

The CHAIRMAN. What is the attitude of the members of the Choctaw Tribe toward the provisions of the pending bill, in your opinion?

Mr. DURANT. They are for this bill, the majority of them, I think. The provisions of the bill, I think, are very fair, the contract being made between the chief of the Choctaw Nation, whoever he might be, and the Secretary of the Interior; they get together and make a deal; after they make that agreement, then they submit it to the Choctaws and the Chickasaws for ratification.

Now, they have to do that under the rules and regulations because we have got no law by which we can handle an election. It has to be done under the rules and regulations provided by the Secretary of the Interior, but it would not be difficult to do. He could fix those rules so that really the only people that would have a right to vote would be those that are enrolled.

Senator CHAVEZ. According to the bill here, section 3, are we giving the Secretary of the Interior \$20,000 to defray the expenses of negotiating the contract and the holding of the election? Why can't we give the Indians some of that money and let them hold their own election?

Mr. DURANT. That is what the \$20,000 is for, to defray expenses of negotiating the contract and holding the election.

Senator CHAVEZ. Why cannot we give that to the Indians themselves?

Mr. DURANT. Well, now, Senator Chavez—

Senator CHAVEZ (interposing). I don't want to be contrary, you know.

Mr. DURANT. There are over 20,000 original Choctaws and six or seven thousand Chickasaws. When we gave up our government, we wiped out our election machinery, and as far as we are individually concerned, we have no way of setting up election machinery.

Senator CHAVEZ. I know, but we can do it by legislation. Under this same bill, can't we give you the power?

Mr. DURANT. Well, the election laws specify who is eligible to vote, and all the requirements that are necessary for State election. You would have a job on your hands. You will get into controversy if you try to pass it. That is the difficult thing about that. You just will load that thing down until you will never get through.

As far as I am concerned, I am perfectly willing to risk the Secretary of the Interior fixing those rules, provided the government of the Chickasaw Nation, and myself as chief of the Choctaws, if I happen to be living at that time, pass on those things, because we know who ought to vote and we know who is not entitled to vote, and as Choctaws we would like to have a say on how those rules should be written.

Senator CHAVEZ. I haven't any desire to be contrary to the Secretary of the Interior, but I think it is fundamental that you and the Indians down there should vote according to your own ways and wishes.

Mr. DURANT. Well, our law was wiped out 30 years ago.

Senator CHAVEZ. We are having a lot of trouble now, complaints daily, every Senator gets complaints daily about Washington running things, and I am tired of it.

Mr. DURANT. I understand that, but an election law is a piece of machinery that is hard to operate.

Senator CHAVEZ. Oh, I think you and the judge could sit down and get an election law in no time.

Mr. DURANT. Well, you will get into nothing but a lot of trouble.

Senator LANGER. There is a witness that could figure that thing out in a half a day.

Mr. DURANT. Oh, we could figure it out. There are a lot of people down there, white people, that have been seeking to get on these rolls. Probably that kind of people would be on our backs, worrying the life out of us to give them a chance to vote.

Senator CHAVEZ. Cannot the tribe say who shall vote, instead of having an agency in Washington say it?

Mr. DURANT. Well, you would have to appoint a special outfit to do it. I haven't got that power as chief of the Choctaw and the Governor never had that power. All the power would have to come from Congress. Then you have to sit down and add to that bill a complete set of election machinery and settle all the objections that could be raised to the operation of it. So that thing is difficult. You are going into a completely new field. As far as I am concerned, as Choctaw representative, I am willing to take my chances with the Secretary of the Interior in preparing those rules and holding that election. As far as I am concerned, I think the law is all right.

Senator SHIPSTEAD. These rules are to keep people out of the election who have no right to be there, as I understand it. Is that your opinion?

Mr. DURANT. No, sir; it is not that. Half of those Indians that were originally on the roll are dead, and they have got heirs. You will divide their part of this money up. You have to set up somebody like a county judge, who has the ability to sit there and pass on those assets. He has got to be able to do that, and he has got to have stenographers and clerks to check those things to find out who these heirs are. You would have to go back two or three generations.

Senator MOORE. That determination could be had under the laws of the State, couldn't it?

Mr. DURANT. Well, I would rather not do that.

Senator MOORE. You would rather not do that?

Mr. DURANT. I would rather take the risk on Uncle Sam. I am not talking about my own State. I am just saying that I am amenable to Uncle Sam. The State has its hands full with its own business already.

Senator MOORE. I quite agree with you on that.

Mr. DURANT. You tied us in with the Secretary of the Interior and we have to be under the control of the United States Government. We cannot approach the Government except through the Department.

Senator CHAVEZ. Don't you want to divest the Secretary of the Interior with control of your business?

Mr. DURANT. Well, I have to do business with Uncle Sam and the only way Uncle Sam can do business with me and my people is through some agent of his.

Senator MOORE. The very purpose of this bill is to do away with that.

Mr. DURANT. Well, you would have to put us under somebody else. It used to be under the War Department. We have been under the Secretary of the Interior for a long time.

Senator MOORE. Your people do not need any guardianship.

Mr. DURANT. In settling this, we have to settle it through Uncle Sam. We have to have somebody through whom we can approach him. The only way we can approach him is through the Secretary of the Interior or some other department of the Government, and act through them and Congress. You have the power to do anything you want to over us.

Senator CHAVEZ. I don't think it is right to have a Department being a party to a contract and at the same time having control over it. I believe in the people ruling instead of the Department.

Mr. DURANT. Well, I do, too. We let them rule as far as we can, but you have got to have some restrictions.

The CHAIRMAN. Does that complete your statement?

Mr. DURANT. Well, the only thing I want to say is that I am in favor of the bill and my people are. I endorse it. There are two or three ways this thing could be settled, and I am very anxious to see Congress go on and pass this bill. Let us arrange it so they can buy this property and settle this on some basis.

Senator LANGER. Near what town is this oil well that is 10 miles away?

Mr. DURANT. Centrahoma is one town and Coalgate is a larger town.

The CHAIRMAN. Thank you, Chief Durant, for your appearance and for your statement. We will next hear from the governor of the Chickasaw Nation.

STATEMENT OF FLOYD MAYTUBBY, GOVERNOR OF THE CHICKASAW NATION

The CHAIRMAN. Will you just give your name to the reporter and your official position.

Mr. MAYTUBBY. Floyd Maytubby, governor of the Chickasaw Nation.

The CHAIRMAN. How long have you served in the capacity?

Mr. MAYTUBBY. About three years and a half.

The CHAIRMAN. How many members of the Chickasaw Tribe are there?

Mr. MAYTUBBY. On the rolls there are about 6,334 members. We have no way of checking the number of heirs of the original allottees.

The CHAIRMAN. When were those rolls completed?

Mr. MAYTUBBY. They were completed first in 1902, and then opened up from time to time to include newborns and minor Chickasaws, and the last record that was made of Chickasaw was in 1907. There were a few hundred newborns.

The CHAIRMAN. Many of those enrollees are now dead?

Mr. MAYTUBBY. We think. Senator, that about half of the original allottees have passed away. On the original rolls there were members that were 50, 60, and 70 years old at that time.

The CHAIRMAN. You may proceed.

Mr. MAYTUBBY. Mr. Chairman and members of the committee, this bill was introduced by Senator Thomas to conform with a part of

the supplemental agreement of the last treaty that we made with the Federal Government. This bill is based upon section 58 and a portion of 59. Senator Thomas conducted a hearing in Oklahoma, on a previous bill, last September. These meetings were held in six different towns in the Choctaw and Chickasaw Nations in which there were 1,000 Chickasaws and Choctaws testified in favor of the coal sale bill at that time. Everybody testified in favor of the bill with the exception of 2 or 3. Those 2 or 3 had the idea that if the lands were sold that the restrictions would be removed on the lands and the lands would become taxable. They were in favor of the bill when it was explained to them.

Under this agreement, after the treaty was ratified in 1902 and Oklahoma became a State, the lands remained tax free for 21 years. That is, the unrestricted land, and on the full-bloods, on the restricted lands, the taxes were made exempt for that period of time. These segregated lands were reserved out of the original allotment at the time because of the value of the lands. They were reserved as common lands for both the Chickasaw and Choctaw Nations. In this agreement, the Federal Government said that within 3 years after the treaty was ratified these lands would be sold and the money divided up per capita. The reason for that was that a lot of the Indians complained about taking 160 acres of land as an allotment because they had lived on larger tracts of land, raising cattle, having a lot of grazing lands and water. They were not equipped to do farming. They didn't have the working equipment. The reason that the Government gave for withholding the sale of these lands was to be able to get a fair price so that the money could be divided up among the Chickasaws and Choctaws, that they might have enough money to buy farm equipment, and thereby make a living on the restricted and unrestricted lands. Now that pledge has long passed because the majority of the unrestricted Indians have disposed of their allotments, have been educated by selling their allotments, or borrowed money and built a larger home. Now, the idea that the Government had in selling these lands and dividing the money per capita for the improvements of lands, that time has passed.

There are a great many Chickasaws and Choctaws that still maintain their allotment, but they have had a lot of land taken away from them on account of taxes. They had 160 acres reserved under these allotments for homesteads and surplus lands of more than 160 acres became taxable, and the Indian has no power to borrow money on the land or sell it, but the county can come in and sell the land for which taxes have not been paid.

For these 40 years the Chickasaws and Choctaws have tried to dispose of their property. I believe that this is the first time that we have testified in the Senate committee on the coal-sale bill, and this bill is well arranged. It gives the Chickasaw and Choctaw Nation representatives the authority to make a contract with the Secretary of the Interior and let the Indians decide how they should be paid. After the negotiations are made this matter is to be taken up with the Chickasaws and Choctaws and they can say whether or not they want to accept the terms.

Senator CHAVEZ. What was the limitation on rents in this bill? Wasn't it \$10?

Mr. MAYTUBBY. What do you mean by limitation?

Senator CHAVEZ. Well, on the price.

Mr. MAYTUBBY. Ten cents a ton royalty. Is that what you are referring to?

Senator CHAVEZ. Ten cents a ton.

Mr. MAYTUBBY. That is what we received in royalties.

Now, I checked with some of the coal companies in Oklahoma—this is a little bit in advance of our negotiations with the Secretary of the Interior, but I did want to have an idea of what the sale price was f. o. b. the mines, and approximately what the recovery of coal was on the purchase of undeveloped lands, and they told me that two-third recovery is good and about as much as you can expect. In other words, you lose one-third. It depends upon the slope of the veins of the coal. If they are level they get more recovery. Coal sells for \$1.50 up to \$5.75 per ton at the mines. There is no question but what a majority of the Chickasaws in the Chickasaw Nation want to dispose of the land and are in favor of this bill.

On the hearings that we held in Oklahoma last September, the details have already been printed, so it is not necessary for either Mr. Durant or I to go into details on this bill, or the set-up of the Chickasaw and Choctaw affairs. I do want to say I am in favor of this bill, and every one of the Chickasaws I have had an opportunity to talk to in meetings, and so forth, do favor this bill, and wishes to dispose of their properties.

The CHAIRMAN. We thank you for your statement, Mr. Maytubby. We will next hear from Mr. Stigler.

STATEMENT OF WILLIAM G. STIGLER, NATIONAL ATTORNEY FOR THE CHOCTAW NATION

The CHAIRMAN. For the record, will you give your full name?

Mr. STIGLER. William G. Stigler.

The CHAIRMAN. What position do you occupy with respect to the Choctaw Tribe?

Mr. STIGLER. I am national attorney for the Choctaw Nation.

The CHAIRMAN. I would like to have you put in the record a statement of your background with respect to your contact with the American Legion and the State of Oklahoma.

Mr. STIGLER. I served in the State senate from the twenty-seventh senatorial district, which is the second largest district in the State, for 8 years. My last year I was elected president pro tempore of the senate. In 1933 I was elected department commander of the American Legion of Oklahoma and served as such for 1 year. Subsequently I served as national executive committeeman of the American Legion from Oklahoma. In 1935 I was elected national president of the Ninetieth Division Association, the division with which I fought in the last World War. I think that about sums up what you asked for, Mr. Chairman.

The CHAIRMAN. Will you just go ahead and make your statement?

Mr. STIGLER. Mr. Chairman and gentlemen of the committee, I want to amplify the statement Mr. Durant made a few minutes ago with respect to the mineral rights.

At the time the Atoka and supplemental agreements were entered into by the United States and the Choctaw and Chickasaw Nations, oil was unheard of in Oklahoma. There wasn't any reservation in the Atoka agreement with reference to oil. The only provision that was made was relative to our coal and asphalt deposits and reads as follows:

It is agreed that all coal and asphalt within the limits of the Choctaw and Chickasaw Nations shall remain and be the property of the Choctaw and Chickasaw Tribes, so that each and every member shall have an equal and undivided interest in the whole, and no patent provided for in this agreement shall convey any title thereto. Revenues from coal and asphalt, so much as shall be necessary, shall be used for the education of children of Indians belonging to said tribes.

I want to call the attention of the committee to "gratuities." In the past 12 years, the Choctaws and Chickasaws have had considerable litigation in the Court of Claims and the Supreme Court of the United States against the Federal Government. Most of that litigation was lost. In practically all the suits the Government set up gratuities as offsets of moneys which had been expended by the Government for the benefit of individual members of the tribe, and in making allotments of our land to individuals. They set up that as an expense to the Government and called it gratuities and used the same as offsets in connection with our suits. It is our position that in the event this bill passes, we certainly don't want the Government to set up a lot of gratuities as offsets and wipe out the purchase price of these coal and asphalt deposits. Therefore, in the statement I made for the record, when Senator Thomas had his hearings in Oklahoma on this bill, I suggested an amendment in substance that should be inserted in this bill before it is passed, because we think we are entitled to that protection.

The CHAIRMAN. Is your suggested amendment incorporated in the record already?

Mr. STIGLER. Yes, sir. It is found on page 22,641.

The CHAIRMAN. Would you at this time read the amendment so that we can get it in this supplemental hearing?

Mr. STIGLER. Yes, sir. I suggest, Mr. Chairman, that it be incorporated at the end of section 2, between lines 5 and 6, the amendment to read, in substance, as follows:

That no expenditure within the following classifications shall be allowed the United States as offsets against the proceeds of the sale of the coal and asphalt deposits where it is shown—

(1) That such moneys were expended by the United States in the discharge of its general or specific obligations, under any treaty or agreement with any Indian nation or tribe, or incidental to the performance of its said treaty or agreement obligations.

(2) That such moneys were expended for the benefit of individual persons who were not enrolled members of the nation or tribe against whose common properties such offsets are sought to be charged.

(3) That such moneys were expended for any Indian nation or tribe, or for the individual members thereof, under any law of the United States providing for relief or assistance passed subsequent to March 4, 1933.

(4) Any expenditures made pursuant to the act of Congress of June 18, 1934 (48 Stat. 984), as amended, and the act of June 26, 1936 (49 Stat. 1967).

The CHAIRMAN. That comes at the end of section 2, on page 3, of the printed bill?

Mr. STIGLER. Yes, sir.

The CHAIRMAN. I just wanted to identify it so that the committee could consider it when they come to it.

Mr. STIGLER. I may add this: At the present time, Mr. Durant, principal of the Choctaw Nation, and I are designated by the Indian Office as trustees for the Choctaw Nation. Whatever amount of money has been expended on various projects in the Choctaw Nation under some of the emergency relief acts, we had to acknowledge receipt for it. We are just a little bit apprehensive that we will meet our signatures in our faces in the future if we do not have some protection along this line I have suggested. Thank you very much.

The CHAIRMAN. Thank you for your statement.

We have with us this morning a member of the supreme court of our State, Judge Earl Welch. Judge, will you come up here, please?

STATEMENT OF HON. EARL WELCH, JUSTICE OF THE SUPREME COURT OF THE STATE OF OKLAHOMA

The CHAIRMAN. Will you state your name for the record?

Judge WELCH. Earl Welch.

The CHAIRMAN. You are a member of the Chickasaw Tribe?

Judge WELCH. Yes.

The CHAIRMAN. What official position do you hold with reference to the State government of Oklahoma?

Judge WELCH. At the present time I am a justice of the supreme court of the State.

The CHAIRMAN. How long have you been a member of the supreme court?

Judge WELCH. Ten years.

The CHAIRMAN. During that time, state whether or not you served as chief justice.

Judge WELCH. I served one time for 2 years as chief justice of the State.

The CHAIRMAN. Are you familiar with the terms of Senate bill 314?

Judge WELCH. Yes.

The CHAIRMAN. Are you here as the official representative of the Chickasaw Tribe?

Judge WELCH. Yes; as a representative. Of course, we have no specifically designated official representative in that capacity.

The CHAIRMAN. All right; we will ask you now to make such statement as you think will be helpful to the committee.

Judge WELCH. I have no prepared statement nor any extended statement to make. Since 10 months ago, when Senator Thomas saw the head men of the tribes and conducted these hearings in five cities and other towns and places in the Nations, our people have talked to those who attended the meetings and are all concerned and interested in this problem and this proposition, and are hopeful that this committee will take favorable action in this Congress upon this bill. Something was said about an election. Of course, that can be handled. I don't regard it of outstanding importance who prescribes the rules and conducts the election. In other words, the Secretary of the Interior can do it. I have complete confidence in the governor of the

Chickasaws and the chief of the Choctaws to prescribe rules to hold that election and get the complete wish of the people.

It was thought, and I think the Government, if they make this deal, ought to know, that the Indian people are thoroughly satisfied with it and want it done; that they recognize it as a proper settlement. That election can be conducted under rules prescribed by whomsoever this committee and the Congress designates. As to submission of this contract before or after it is executed, I take it the thought on that was that the negotiations would develop the terms and the conditions of the sale, and then thereafter it ought to be submitted to the people as completed, rather than to seek the expression of twenty or thirty thousand people as to what they think the details ought to be. But that can all be worked out in the election.

Our people are quite appreciative of the hearings that were held some months ago. Perhaps a thousand people altogether attended the meetings. I attended one of them, and other hundreds have talked to those who were there. They know about this matter, and the election part of it can be handled honestly, and I assure you that the Choctaws and the Chickasaws desire this measure and will cooperate in the negotiations and in the election in whatever way is possible.

The CHAIRMAN. Are you of the opinion that the members of the two tribes understand the provisions of this bill?

Judge WELCH. Yes; I think quite largely they do. You will recall at McAlester and other places there were those persons who did not understand it. Then you made it quite plain. Interpreters were used, as you recall, in some places, and they have explained it to the neighbors back home in the country, and in the towns, and they do understand it, and they want the legislation.

The CHAIRMAN. In order to be helpful, copies of the printed hearings that were taken in the State were mailed to each persons who attended, and in that manner they had a chance to read the bill, read the Secretary's report, and read the statements made on the different points.

Judge WELCH. Yes. I know of my personal knowledge those have been passed around the State to numerous others who did not receive them by mail.

The CHAIRMAN. Are there any questions to be submitted to Judge Welch?

(There was no response.)

The CHAIRMAN. We thank you, Judge Welch.

We have another member of the judiciary, Judge McCurtin. We would like to have a statement from him.

STATEMENT OF D. C. McCURTIN, TRIAL EXAMINER OF THE BITUMINOUS COAL DIVISION

The CHAIRMAN. Will you state your name for the record, please?

Mr. McCURTIN. D. C. McCurtin.

The CHAIRMAN. What tribe do you belong to?

Mr. McCURTIN. Choctaw.

The CHAIRMAN. Were you born in the Choctaw Nation?

Mr. McCURTIN. Yes, sir.

The CHAIRMAN. What position are you now holding?

Mr. McCURTIN. I am trial examiner of the Bituminous Coal Division.

The CHAIRMAN. Did you at one time serve in the government of Oklahoma or in the judiciary?

Mr. McCURTIN. I was district judge for 10 years.

The CHAIRMAN. Have you read this bill?

Mr. McCURTIN. Yes, sir.

The CHAIRMAN. We would be glad to have your statement of your viewpoint with respect to this legislation and what you think should be done. You may make such statement as you think will be helpful to the committee.

Mr. McCURTIN. Well, I guess my statement will be more in the nature of a general talk, but with the indulgence of the committee I shall briefly state what I consider to be the historical background leading up to the present bill.

Back in 1893 it became apparent that on account of the number of white people who had then come to the Indian Territory, that some arrangement would have to be made to establish a State Government, and an act was passed, I believe in 1893, authorizing the President to appoint a commission to negotiate with the Five Civilized Tribes with a view to securing an agreement from the various tribes for the allotment of the land and the dissolution of their tribal governments, preparatory to the creation of a State of the Union. That commission was appointed and known as the Dawes Commission and sent to the Indian Territory, and they began to negotiate with the different tribes—the Choctaws, Chickasaws, Cherokees, Creeks, and Seminoles.

At first there was quite some opposition to the idea of dissolving the tribal governments and allotting the lands, because the Indians' treatment at the hands of the Government had made them a little bit shy of any innovations whatsoever. But the Choctaws and Chickasaws entered into an agreement known as the Atoka agreement. In that agreement, the coal and asphalt deposits belonging to the two tribes were reserved from allotment, and it was provided that the royalties accruing from those deposits where they were leased and operated would be used for the education of the Choctaw and the Chickasaw children.

Then, as time went on, the Choctaws and Chickasaws, being at that time citizens of the United States and of the State of Oklahoma, felt that they had a right to the educational privileges and benefits of any other citizen of that country. It became necessary for reasons it will not be necessary to recount here, to enter into what was known as the supplementary agreement. The supplementary agreement instead of reserving the coal and asphalt deposits for educational purposes, provided that the Secretary of the Interior may within a given time segregate the coal and asphalt lands and provided for the sale of them. That agreement was ratified not only by a substantial, but by a decisive majority of the Chickasaws and Choctaws. They entered into that agreement in the very best of good faith. They expected that that agreement would be carried out according to its terms.

Well, the coal land was segregated. I think the Secretary of the Interior was allowed 6 months in which to segregate the lands particularly valuable for coal and asphalt deposits. That was done, and then the agreement was not carried out. Congress, from time to time

changed the provisions of the law relating to the coal and asphalt deposits. I say "law" because an agreement with the Indian tribes ratified by Congress had the force and effect of law, and was law. That was changed from time to time. Instead of selling the land as provided by the agreement, changes were made as to the quantity of the land to be sold, et cetera.

We contended, unsuccessfully, however, that if they sold the coal and asphalt deposits at the time provided for in the agreement, and in accordance with its terms, we could have realized a good sum of money, because oil and gas were then in their infancy, you might say, in our country. We foresaw that and urged upon the Government the carrying out of the supplementary agreement, but we were not able to impress the Government with the weight of our contention.

We had this to contend with: Much of that land was under lease—I mean the coal and asphalt were under lease to lease-holders or lessees who were opposed to the sale of that land. In fact, just to be plain, they maintained a lobby here to oppose the sale of the land, and secured changes in the provisions of the law, and, as a result, oil and gas came in as a competing fuel, the market for coal went down accordingly.

We say and we think that the committee will agree with us, that as guardian of the tribes, the Government is not only under the moral duty, but I believe, and I think you will agree, under the legal duty to take this coal off of our hands now, because it is a well-known rule of law in guardianship matters that the guardian is supposed to conserve and protect the interests of his ward, and if he neglects to do so and his ward loses as a result of his neglect of duty, then the guardian is responsible under his bond. We believe, therefore, that the Government is very strongly morally bound, if not legally bound, to come to our relief at this time.

I want to say this: I don't know that this will appeal to Congress, but I think it should, when the matter came up away back yonder in negotiating the agreement looking to the dissolution of the tribal government and the allotment of the lands, with the ultimate purpose of creating a State of the Union, some of the agreements were not forthcoming and Congress undertook to take the bit in its teeth and go ahead and provide for the dissolution of the tribal governments, and the allotments of land anyway. Lawyers in the Senate raised the question as to how you are going to erect a State government upon lands or in a country embracing lands the title to which was in the Indian tribes. Well, it was said, that Congress could just authorize the Secretary of the Interior to execute patent for the tribal interests, but the lawyers in the Senate said, "No, you cannot do it that way; you cannot legislate title out of one party into another." In other words, you cannot legislate title out of a tribe into individuals. You will have to get an agreement with them for that purpose. As a result, they came back and talked turkey, and an agreement was entered into in good faith, and had it not been so, gentlemen, if they had never entered into those agreements, today you would not have the grand and glorious State of Oklahoma that you now have had it not been for the Indians doing their full part in paving the way for the erection of a State government. For that reason we believe the Government is duty bound now to come to our relief and buy these lands, buy the coal deposits, since we were not permitted to sell at a

time we think we could have, to the advantage of the tribes, if the agreement had been carried out.

The CHAIRMAN. Are there any questions?

(There was no response.)

The CHAIRMAN. We thank you, Judge, for your statement.

Now, we have a representative of the organization of the Indians themselves, disassociated from the officers of the tribe as they relate to the Government.

Mr. Short, will you come forward, please?

STATEMENT OF W. W. SHORT, PRESIDENT OF THE CHOCTAW-CHICKASAW CONFEDERATION

The CHAIRMAN. For the record will you give your full name?

Mr. SHORT. W. W. Short.

The CHAIRMAN. Where do you reside?

Mr. SHORT. Oklahoma City.

The CHAIRMAN. Do you represent a group of Indians interested in Senate bill 314?

Mr. SHORT. Yes, sir; I do.

The CHAIRMAN. Now, tell the committee the nature of your organization and your connection with it. Then proceed to make such statement as you see fit.

Mr. SHORT. First, I want to say that I am a member of the Chickasaw Tribe, an enrolled member. I have three children and their mother is an enrolled Choctaw Indian. I am State president of the Choctaw-Chickasaw Confederation, and I would like to make a few remarks on this bill.

The CHAIRMAN. Will you state how many members you have in your organization?

Mr. SHORT. Yes, sir; we have approximately, I think, a little over 9,800 members in 15 counties in the old Choctaw-Chickasaw Nation.

The CHAIRMAN. Your organization then is made up of members of both of the tribes?

Mr. SHORT. That is correct.

The CHAIRMAN. The Choctaws and the Chickasaws?

Mr. SHORT. Yes, sir.

The CHAIRMAN. Have you someone with you today who represents this organization also?

Mr. SHORT. Yes, sir. Mrs. Myrtle Creason, of Oklahoma City, secretary, is with us. We will hear from her, then.

Senator CHAVEZ. What are the general purposes of the organization?

Mr. SHORT. The general purpose of the organization was to organize the members of the two tribes to cooperate with our elected officials in Washington and our tribal officials in winding up our tribal affairs.

Senator CHAVEZ. That is with reference to Indian property?

Mr. SHORT. Yes, sir.

These people, Senator Thomas, as you know, from holding your hearings in Oklahoma, I think there were about four out of a thousand—

The CHAIRMAN. You mean that opposed the bill?

Mr. SHORT. Four opposed the bill out of every thousand that were in favor of winding up our property affairs and selling our coal. Personally, I have made an extensive investigation as to the number of full-bloods in the tribe. The investigation I have made by talking to the people in the Chickasaw Nation, both full-bloods and mixed bloods, shows that about 10 percent of the Chickasaws are full-blood or restricted Indians. The rest of us are, as the people you have seen here, a fair representation of the mixed blood of Choctaw and Chickasaw Indians. In the Choctaws, with reference to full-bloods, from 20 to 25 percent is the estimate of the full-bloods, or restricted, Indians now living. That is an honest an estimate as we have been able to get.

The mixed-blood Indians have stood back and let the full-bloods and the tribal officials handle our tribal affairs, until today, after over 40 years of this kind of management our State is being dissipated, our State is getting smaller, and I want to say this for the benefit of the committee, that my understanding is that back in 1912 to 1918 the Government caused the Choctaws and Chickasaws to spend some \$50,000 or \$75,000 in getting estimates of the value of and the tonnage of coal in these deposits.

We are urging the passage of this bill. We want to wind up our affairs. We want to get out from under the wardship; we are tired of the Government being our guardian. We think that we people are entitled to handle our own affairs, that we are capable of doing so, and I think it is time that these matters should be wound up. We are not objecting to the present tribal officials but we are tired of the system in which the Indian Bureau operates our properties.

We have Choctaw and Chickasaw Indian boys that are fighting on the front in this war today. They did not wait to be drafted; they volunteered. To be a little bit personal, I only have one son, and today he is flying a heavy bomber somewhere down in New Guinea in the south Pacific area. The first flying fortress that was landed on Henderson Field at Guadalcanal was a Choctaw-Chickasaw by the name of Ben White, Jr., of Oklahoma City. There are hundreds and hundreds of Choctaw and Chickasaw boys fighting in this war.

Now, there have been some things mentioned about the oil values in these lands. Now, I am a deputy oil and gas conservation officer of Oklahoma. In a limited way I am familiar with the oil business in Oklahoma.

The CHAIRMAN. With whom are you associated?

Mr. SHORT. The Corporation Commission of the State of Oklahoma. I have taken the potentials on Senator Ed Moore's well down in Pontotoc County. Of course, he is more familiar with the oil possibilities than I am, but as I understand from the attorney, Mr. Stiegler, of the Choctaws, and the governor of the Chickasaws that we have 27,000 acres of this land that carries all of the oil and gas values—in fact all the mineral rights including oil and gas. The balance of the segregated coal land only carries coal, as I understand it. I want to say in my opinion that these lands have definitely a prospective oil and gas value. I think you will agree with me, Senator Moore.

Now, on the election, I have been thinking about it sitting back there and hearing it discussed. I want to give you as a suggestion,

my own personal idea of the selection. We are tired of being wrapped up in red tape. We are tired of departmental supervision. I think that the Choctaws-Chickasaws could hold this election. We have a record of the enrolled members of both tribes and I think we are capable of holding an election to decide the matter. I think that the Government should pay for holding this election, and let the Choctaws and Chickasaws thresh this thing out among themselves without any supervision of the Secretary or any other Government department. That is my personal opinion, and I think that would be approved by the people that I represent.

Senator CHAVEZ. Now, for instance, that boy you speak of in the south Pacific, in my opinion it would be an insult to him to have some departmental clerk around here write a rule or regulation as to what he thinks of this bill.

Mr. SHORT. Personally, Senator, that is my opinion.

Representative STEWART. We have one Indian that is restricted that received the same citation and decorations as did Sergeant York, yet he is a restricted Indian, notwithstanding all of his medals, glory, and recognition by his country.

Senator CHAVEZ. I had in my office last Saturday five Indian boys from New Mexico, five Navajos. Two of them had seen front-line service in North Africa. Still they are restricted. Washington must tell them what to do and what not to do.

Mr. SHORT. Yes, sir. We have hundreds of Choctaw and Chickasaw boys fighting on the different fronts of this war and in service in the different camps today. Not only the Choctaws and Chickasaws, you will find that is the spirit among all the Indians, whether they are from the Western States or from Oklahoma. We believe we are capable of taking care of ourselves.

There is Earl Welch, a schoolmate of mine. He is in the supreme court. Mr. Reford Bond, a Chickasaw, is chairman of the corporation commission of our State. We have Choctaws and Chickasaws in the State senate and house. These people here are fairly good representatives of us. I think the Government has held the Indian down. We want to be turned loose. Speaking from experience, I think the Indian children should go to school with the white people.

Senator CHAVEZ. I make this statement for the record. I have been serving in this committee under Senator Thomas for quite a few years. I know it has been the purpose of the chairman of the committee and the members of the subcommittee to try and help the Indian. We want to help the Indian, and I think the record of the committee will show that, irrespective of the political complexion of the table.

Mr. SHORT. Thank you, sir.

Senator MOORE. You know, Mr. Short, I am sure that those who have had an opportunity to be familiar at all with the capabilities and the general average of intelligence of the people who belong to the tribes of Indians feel that it is about on an equal par with that of other citizens.

Mr. SHORT. Yes, sir. I want to make this remark, and I am through. In Antlers, Congressman Stewart's home town, we were through there, Senator Chavez, in starting to organize this organization. We started out just at the break of the war. Then gasoline rationing came on, and we did not get a chance to organize all the country. To show how they felt, when we got down to Antlers there were several Choctaws there,

including Victor Locke, who used to be connected with the Department. He said, "We are glad to see you mixed bloods become interested in our affairs. We want to get results, and we want to get it wound up." We are heartily in favor of this bill.

The CHAIRMAN. Thank you very much, Mr. Short. You have been very helpful.

ADDITIONAL STATEMENT OF W. W. SHORT, PRESIDENT OF THE CHOCTAW-CHICKASAW CONFEDERATION

My name is W. W. Short. I am an enrolled member by blood of the Chickasaw Indians. I am the State president of the Choctaw and Chickasaw Confederation, and Mrs. Myrtle Creason, a Choctaw, is secretary.

This confederation, when it was first started, was called the Choctaw and Chickasaw Coal and Asphalt Land League. Under this title 15 counties, comprising part of the Choctaw and Chickasaw Nation of Oklahoma, were organized. On the 19th day of October 1942, 13 county organizations sent delegates to Oklahoma City to organize this movement into a permanent organization, and this organization was given the name of Choctaw-Chickasaw Confederation, the preamble of the Constitution and bylaws reading as follows:

"We, the members of the Choctaw and Chickasaw Tribes of Indians in convention assembled at Oklahoma City, Okla., on the 19th day of October 1942, in order to secure to ourselves and our descendants the rights, privileges, and benefits to which we are entitled under the laws of the United States and the State of Oklahoma; to assume full responsibilities as American citizens; to cooperate with all persons, organizations, governmental and other agencies seeking a fair, just, and equitable adjustment of our tribal affairs; and to otherwise promote our common welfare, do establish this organization and adopt the following constitution and bylaws."

This confederation is an organization of Choctaws and Chickasaws, organized as a State confederation, with units now operating in 15 counties of the old Choctaw and Chickasaw Nation. This confederation was organized for the sole purpose of cooperating with our elected Senators and Representatives in Washington and with our tribal officials in winding up the tribal affairs of the Choctaw and Chickasaw Indians.

We have approximately 9,800 Choctaws and Chickasaws enrolled as members in these 15 county units. I make the above statement to show you the interest the Choctaw and Chickasaw Indians are taking in their affairs, and I think I can truthfully speak for 99½ percent of all the Choctaw and Chickasaw Indians, both mixed bloods and full-bloods, in urging you to recommend passage of the Thomas Senate bill, S. 314.

I wish to make a few remarks regarding this bill. The last treaty, or agreement, between the United States Government and the Choctaws and Chickasaws was approved by an act of Congress of July 1, 1902, and ratified by the Choctaw and Chickasaw Tribes of Indians, and became effective on September 25, 1902.

The Federal Government agreed by this supplemental treaty (quoting from sec. 59 of the treaty)—

"All lands segregated and reserved under the last preceding section, excepting those embraced within the limits of a town site, established as hereinbefore provided, shall, within 3 years from the final ratification of this agreement and before the dissolution of the tribal governments, be sold at public auction for cash * * * and the proceeds arising from said sale of coal and asphalt lands and coal and asphalt deposits shall be deposited in the Treasury of the United States to the credit of said tribes and paid out per capita to the members of said tribes (freedmen excepted)."

And section 61 of this treaty provides—

"No lease of any coal or asphalt lands shall be made after the final ratification of this agreement, the provisions of the Atoka agreement to the contrary notwithstanding."

Disregarding this provision and in violation thereof, the Federal Government has, from time to time, since the ratification of the treaty, leased these lands as it saw fit without the consent of the tribes, and 1928 was the last year in which a per capita payment was made.

The Department of the Interior decided about a year after the ratification of the treaty of 1902 that it did not want to sell the coal lands and asked Congress for some kind of legislation to permit an extended leasing program in violation

of the Atoka agreement and supplemental agreement. Such act was passed, I believe, in the summer of 1904, at least in that year. And, through one maneuver or another, this program has continued over 40 years.

In 1902 the Choctaws and Chickasaws owned approximately 450,000 acres of coal lands. Since that time almost 100,000 acres have been sold—around 5,000 acres were sold last year over the protest of these Indians.

From the best information we can obtain, the revenues from leasing and royalties on these lands belonging to the Choctaws and Chickasaws amount to approximately \$35,000 to \$40,000 annually. On the face of this it would seem to some people as though it would be profitable for the Choctaws and Chickasaws to maintain these deposits longer, but from a practical and business standpoint it would not, and I want to give you the figures presented to the Senate Indian Committee of the Seventy-seventh Congress, second session, February 2 and 3, and March 3, 1942, bill S. 1542. Senator Chavez speaking—

"Has the Department information as to how the revenue was spent in the last 10 years?"

Mr. Zimmerman: "Yes, sir. I do not happen to have it in my hands at the moment."

Senator Chavez: "Do we have it in the record yet?"

Mr. Zimmerman: "I do not know, but I think that it could be supplied easily."

Senator Chavez: "I think that it would be advisable to have the records show the receipts and the disposition of the receipts."

This information is as follows:

Receipts from the coal and asphalt lands for the Choctaw Nation for the years 1932 to 1941 amount to-----	\$256, 702. 17
Tribal appropriations, including the salaries and expenses of the tribal officials for the Choctaw Nation for said years amount to-----	388, 257. 18
The Choctaws have a deficit for said years in the amount of-----	131, 555. 01
Receipts from the coal and asphalt lands for the Chickasaw Nation for the years from 1932 to 1941 amount to-----	77, 667. 45
Tribal appropriations including the salaries and expenses of the tribal officials for the Chickasaw Nation for said years amount to-----	156, 306. 02
The Chickasaws have a deficit for said years in the amount of-----	78, 638. 57

The Federal Government has forced the Choctaw and Chickasaw Indians for more than 40 years to maintain a tribal form of government—the Chickasaws having a governor and a part-time attorney, the Choctaws a chief and attorney, and the two tribes together a coal trustee. Besides the salaries of these officers, I understand they are allowed \$2,500 each year for expenses. I have made a determined effort to find out as nearly as possible the number of full-bloods in each tribe. I have talked to full-bloods and mixed-bloods in every county of the old Chickasaw Nation and from this investigation it is the judgment of the people I have talked to that there are about 10 percent of the Chickasaws who are full-bloods or restricted Indians. The other 90 percent are mixed-bloods or unrestricted Indians. I made this same investigation in every county of the old Choctaw Nation and find that approximately 20 to 25 percent are full-bloods or restricted Indians.

At the time of enrollment there were approximately 20,000 Choctaws and 6,000 Chickasaws. These Indians are scattered all over the globe, and I call to mind a few of them to show you the character and kind of these Indian citizens. I would like to mention Earl Welch, a Chickasaw, who is chief justice of the supreme court of the State of Oklahoma; Reford Bond, a Chickasaw, the chairman of the corporation commission of the State of Oklahoma; Dick MacLish, a Chickasaw, who owns and operates the Oklahoma Live Stock Commission Co., at Oklahoma City; Tom Hunter, a full-blood Choctaw, I believe, who has been county judge of Choctaw County for so long the people take him to be part of the fixtures of the county; Gilbert Daney, a Choctaw, who is county judge of Atoka County; C. C. Chastain, a Choctaw, who has been county judge of Grady County for several terms; Dr. T. P. Howell, a Choctaw, president of the First National Bank of Davis; Jess Maytubby, a Chickasaw, cashier of the First National Bank of Caddo; Elmer Phillips, a Chickasaw, manager of the Peoples Packing Co. of Oklahoma City; Tess Mobley, a Chickasaw, of Ardmore, who has sung before the crowned heads of Europe, known professionally as Lushanya; Walker T. Pounds, a Chickasaw, chief clerk of the oil and gas division of the corporation commission of the State of Oklahoma; Mrs. Charles Fisher, a Chickasaw, who entertained the King and Queen of England at a reception given in the

White House by the President's wife, known professionally as Princess Te-Ata. Several Choctaws and Chickasaws are in the house of representatives and the State senate of Oklahoma. Others are lawyers, doctors, men engaged in the oil business, farmers, and cattlemen. It does not make sense to keep such people as wards of the Government. Some of these Indians are destitute, but there are also a lot of destitute white people in Oklahoma.

We want our affairs wound up and a final settlement made. We have seen our estate grow smaller year after year; we have seen our money wasted on unnecessary bureau officials and tribal officials until we, the Choctaw and Chickasaw people, have decided it is time to get together and do something about winding up our affairs. I think the Federal Government should buy these coal and asphalt lands, add them to the Federal mineral reserves for the future safety of our Nation. Science and chemistry are finding out more about the possibilities of the byproducts of coal every day, and they are now producing over 64 parts that go into the modern airplane, byproducts from coal, besides numerous other things in our everyday life. You may say coal today is "black magic."

From a financial point of view, the Federal Government would be making a good investment, not only for the safety of our Nation but in a dollar-and-cent point of view. It is debated among the best authorities of the Nation that our oil and gas reserves are limited. When and if these reserves are exhausted, then these vast coal deposits would, indeed, be an asset to any nation.

The Federal Government has forced the two tribes to preserve these deposits. The enrolled members are rapidly passing away, and today there is no way on earth to tell how many of the enrolled members are living. It would let every member, including the full-bloods, know exactly what they had as their share. They would realize then they would have to depend upon their own efforts and initiative for a livelihood, and it would put new life into them.

We have been told by politicians and public officials ever since statehood that we were a wealthy people, that we had a great estate that was worth anywhere from fifteen to thirty thousand dollars a head. There was a large majority of the people who believed this was truth, with the result they held back, did not put forth much effort toward making anything more than a bare living, and today they are beginning to realize the truth—that their estate is not so large, that it has been getting smaller all the time, that the Government has not kept its treaty agreements, and it is much harder to meet the everyday needs of life today than it was a few years ago.

The Choctaw and Chickasaw Indians had their own government and were prosperous under their tribal form of government, but when they made the treaty with the Federal Government in 1902 they had every reason to believe the Government would carry out the provisions of the agreement. They thought that in accepting said treaty they would thereby adjust and stabilize their affairs, and that they would receive their money from these coal and asphalt lands and other tribal property; that they would have this money to improve their allotments and to meet the new order under statehood. But the confusion and contentions that have developed, and now exist, because of the various phases of the guardianship of the Federal Government over the Choctaw and Chickasaw Indians and their property, causes continued and enormous expenditures on the part of both the Federal Government and the Choctaw and Chickasaw Tribes of Indians. The unnecessary expense could be eliminated and a saving effected by the Federal Government and at the same time it would be paying a moral debt and complying with their treaty obligations to these Indians by winding up the tribal affairs.

Personally, I think the Indian bureaus should be completely readjusted in Oklahoma. I think the full-blood children would be better off going to school with the white children. I say this from actual experience for all the education I received was in the Indian Academy at Rock Academy and Harley Institute in the old Chickasaw Nation and I was several years adjusting myself to the ways of the white man's society. I was backward and timid and this will apply to the Indian children of today being educated in schools where there are only Indian children.

I have only one son. He is a pilot and flying heavy bombers somewhere in the southwest Pacific. The first flying fortress landed on Henderson Field on the Guadalcanal Island was piloted by a Choctaw and Chickasaw Indian, name, Ben White, Jr., of Oklahoma City. There are hundreds of Choctaws and Chickasaws in service fighting in this war. What will these men think of their Government keeping them wards of the Government and the Government, guardian of their

property? When they come back they want to be free men and handle their property as any other citizen.

I speak for the 9,800 Choctaw and Chickasaw Indians enrolled as members of the Choctaw-Chickasaw Confederation in asking this committee to recommend to the Senate of the United States the passage of this bill for I believe it to be broad enough that we may be able to wind up all the tribal affairs of the Choctaw and Chickasaw Indians and the Government will then, after more than 40 years, have carried out their treaty agreements and let us be on equal footing with other citizens.

STIGLER, OKLA., *October 14, 1942.*

Hon. W. W. SHORT,
Oklahoma City, Okla.

DEAR MR. SHORT: I have been authorized to write you, by the members of the Mai-hia-ya Indian Club of Haskell County, which is a member of the General Federation of Women's Clubs and is named for my beloved grandmother, Mai-hai-ya McCurtain, wife of a Choctaw chief and mother of three Choctaw chiefs—the McCurtain brothers—Jack, Edmund, and Green.

We have followed with the greatest admiration your valiant fight on behalf of our noble cause.

I believe the backers of this movement for the sale of our coal lands are taking advantage of us in claiming that it is our patriotic duty to sell this land for the defense of our country. We are loyal Americans—Americans with an inborn sense of patriotism born of 450 years of fighting for the defense of this country. We have fought for our rights since the coming of the first foreigners to our shores and have risked and given lives as recently as the battles of Corregidor and the Solomons.

We think it a poor argument and do not consider it being patriotic to practically give to a private concern our lands which we can see that they will not in all probability use in the immediate defense of our country but will save for a later time when they can make enormous profits by supplying the post-war demand for this material to rehabilitate the now warring countries. These private concerns will then profit by our loss and reap the fruits of our lands.

It is a poor brand of patriotism and we Indians would rightly be ashamed to admit to our sons who are fighting for America and risking their lives for this country to return to find their heritage gone—practically given away to private concerns.

While they are fighting over there, let us at home fight for their rightful heritage here.

May God give you the strength and wisdom to continue your courageous fight on our behalf.

Your friend.

/s/ ALICE MCCURTAIN SCOTT.

STATEMENT OF MRS. MYRTLE CREASON, SECRETARY, CHOCTAW-CHICKASAW CONFEDERATION, OKLAHOMA CITY, OKLA.

The CHAIRMAN. Mrs. Creason, will you come forward and give your name to the reporter.

Mrs. CREASON. Mrs. Myrtle Creason.

The CHAIRMAN. Where do you reside?

Mrs. CREASON. Oklahoma City.

The CHAIRMAN. Are you connected with an Indian organization looking after the welfare of the members of the tribes?

Mrs. CREASON. Yes, sir.

The CHAIRMAN. What is the name of the organization?

Mrs. CREASON. The Choctaw-Chickasaw Confederation.

The CHAIRMAN. You are secretary of that organization?

Mrs. CREASON. State secretary.

The CHAIRMAN. You may make any statement you wish.

Mrs. CREASON. I will give my statement to the reporter because I know the time is short, and I will just make a very few remarks.

In my office as State secretary, I have contacted, over a period of some 18 months, literally hundreds of members. This organization is composed of several thousand persons. We have received communications, and I have contacted them from many States of the Union, as far away as Honolulu. Our members are of the tribes who are in those sections of the country, and all of them are in favor of and are urging the passage of this bill.

Now, I want to just call attention here to two pledges. I am sure you are familiar with them, but the following pledge was given the American Indians by the Democratic Party in convention assembled in Chicago in 1940:

We favor and pledge the enactment of legislation creating an Indian Claims Commission for the special purpose of entertaining and investigating claims presented by Indian groups, bands, and tribes, in order that our Indian citizens may have their claims against the Government considered, adjusted, and finally settled at the earliest possible date.

The Republican platform adopted in Philadelphia in the same year said:

We pledge an immediate and final settlement of all Indian claims between the Government and the Indian citizenship of the Nation.

My earnest entreaty is that this bill be passed favorably out of this committee. My remarks are for the record.

Mr. Chairman and members of the committee, I consider it a privilege to appear before you to give my reasons, and not mine alone, but the reasons of the Choctaw Tribe of Indians, for wishing to see this bill passed. And I shall be as brief as possible.

Through my office as State secretary of the Choctaw-Chickasaw Confederation, numbering several thousand persons, I have contacted, over a period of 18 months, both personally and through the mail, hundreds of members of my tribe on this vital question. All these, without exception, say the same thing—the thing they have gone on record as advocating: “We want to sell our coal lands. We want to get out of the coal business once and for all. We want the Government to fulfill treaty agreements. We enrolled Indians are growing old and have waited 40 years for the fulfillment of these promises. With sad eyes we have watched our one remaining inheritance gradually vanish without benefit to any of us. We are asking only for what is justly due us.”

In addition to the testimonies in this report on the hearings held in the State of Oklahoma by Senator Thomas, this committee has received many letters from individual members asking for the passage of this bill. I believe you are familiar with the wishes of all tribal members on this question.

By an act of Congress of July 21, 1924, all Indians born within the territorial limits of the United States were declared American citizens, though why they were ever considered anything else is an unsolved mystery, since they are definitely the first Americans.

Are they the ones who have broken treaty agreements? When in his native state honesty was a byword with the red men. Promises were kept at all cost. There is no instance of Indians breaking treaty agreements. History records many examples of Indians who have been outstanding Americans. The participation of American Indians in World War 1, in camp and actual warfare, furnishes a ratio

to population unsurpassed and unequalled by any nation, and they were not subject to conscription and were not in any way required to participate. And they are as active in the present conflict and are gaining as many honors as their paleface brothers.

My people are not asking a gratuity. As loyal American citizens they ask fulfillment of solemn treaties—solemn so far as the Indian is concerned.

You are familiar with the provisions of the 1902 treaty regarding the promise to sell this coal and asphalt land within 3 years from the final ratification of said treaty; to pay the proceeds out in per capita payments to the members. Instead of the Government doing this, within a year's time a movement was started by the Department of the Interior, asking legislation that would take the lands off the market and provide for an extended leasing program. The Indians protested, saying: "We want to go through with this agreement as we have said." However, the act was passed in 1904. The power to sell was given to the President of the United States, in the Atoka agreement, but that was soon changed, and this authority given to the Secretary of the Interior.

Section 61 of the supplemental agreement reads:

No lease of any coal or asphalt lands shall be made after the final ratification of this agreement, the provisions of the Atoka agreement to the contrary notwithstanding.

I need not tell you that in spite of this the lands have been consistently leased. No longer ago than February and March 1942 a leasing bill was before this committee which was so strongly opposed that the Secretary of the Interior said in a letter to J. G. Puterbaugh, of McAlester, Okla., as of March 16, 1942, I quote:

In view of the many uncertainties attending a lease, including the possibility of delay in obtaining legislation, I see no objection to an immediate sale—

and sell it he did, in spite of protests by letters and telegrams from tribal members, because he had that power. Two telegrams to the War Production Board and one to the President offered, as a patriotic gesture, to give the coal under said acreage to the Government for the duration rather than sell at the price contemplated.

I understand that this committee is not passing upon the value of these lands, but I do want you to realize that we are not asking the Government to purchase a worthless piece of ground. This same Mr. Puterbaugh in a speech before the Oklahoma Minerals Conference December 10, 1942, in Oklahoma City, had this to say:

There is deposited beneath the blue-capped hills and green valleys of eastern Oklahoma, adjacent to the beautiful cities of Henryetta and McAlester and Tulsa, approximately 79,000,000,000 tons of the highest grade bituminous gas coal and semibituminous smokeless coal found in America.

And speaking of the amount of coal this particular acreage is expected to produce, I quote:

* * * and if the coke ovens and blast furnaces now under active construction at Dangerfield and Houston, Tex., are carried through to completion—as is expected—beginning approximately May 1, 1943, these mines now being developed and equipped will be expected to produce for them [the Sheffield Steel Corporation] approximately a million tons of coal per year.

On page 83 of the hearings on bill S. 1542 as of February and March, 1942, is recorded this passage—between your chairman and Mr. Puterbaugh:

The CHAIRMAN. From the standpoint of business administration of the affairs of these Indians do you think it would be a more advantageous thing to sell this land than it would be to lease it?

Mr. PUTERBAUGH. Well, frankly, Mr. Chairman, I have thought for a long time that the Federal Government was not treating the Indians properly in compelling the Indians to be the conservation agency for these coal deposits. In other words, there will come a time, maybe 50 years hence, when that country down there will not be so abundantly supplied with natural gas and cheap fuel oil, and it will need coal, and even the land that has no market value now will have value then, and I think it would be the proper thing for the Federal Government to relieve the Indians of the ownership of these lands and to put them into the Federal coal reserve and not be in haste to sell them or lease them now, but let them be available to the public as the public needs the coal, to be mined in a legitimate, careful manner, and let the Indians out of it * * *. There is a great deal of discontent down in that country and a feeling that the Government has not kept faith with them in administering their estate and liquidating it out.

This question has been coming before Congress for so many years that I am sure it will be a relief when it is settled and out of the way. I am sure it will make the Indians happy.

It is hoped that the two major parties meant what they said when they made these pledges to the Indian people and that they were not merely "campaign oratory" to secure the Indian vote.

Each of you have received a copy of the Concurrent Resolution No. 16, passed by the Oklahoma Legislature in March 1943 memorializing Congress to pass this bill, S. 314, giving valid reasons for so doing.

In conclusion, this is my earnest entreaty as a representative of my tribe, that the just and honorable thing be done by this committee and that you show your good faith by reporting this bill out favorably. I thank you.

The CHAIRMAN. We thank you for your statement.

Mr. Welch, I believe we would like to hear from you.

STATEMENT OF LEE WELCH, ACTING COUNTY ATTORNEY, ANTLERS, OKLA.

The CHAIRMAN. Will you just state your name for the record?

Mr. WELCH. Lee Welch.

The CHAIRMAN. Where do you reside?

Mr. WELCH. Antlers, Okla.

The CHAIRMAN. Are you a member of either of these two tribes of Indians?

Mr. WELCH. I am enrolled as a Chickasaw.

The CHAIRMAN. Have you any official position in the State of Oklahoma at the present time?

Mr. WELCH. At the present time I am acting as county attorney. The regular county attorney left for the Army and I am serving that time.

The CHAIRMAN. Have you read the provisions of the bill before the committee, Senate No. 314?

Mr. WELCH. Yes.

The CHAIRMAN. Now, will you make any statement you think will be helpful to the committee?

Mr. WELCH. I endorse everything that has been said in favor of the bill. I think you had a very thorough and well-attended hearing down in Oklahoma along last summer, and, as has been indicated, everyone in attendance practically unanimously is in favor of the bill. I think those hearings have contributed to the dissemination of information as to the provisions of the bill, and I think that the Choctaws and Chickasaws are practically unanimously for it. We hope we will have favorable consideration, and that Congress will pass the legislation.

The CHAIRMAN. Is it your opinion that the members of the two tribes have a fair understanding of the proposition that is to be presented?

Mr. WELCH. Yes, sir; I think they do, Senator.

The CHAIRMAN. It is your opinion, or understanding, that they are in favor of trying to negotiate a contract with the Government for the sale of these lands?

Mr. WELCH. Yes, sir.

The CHAIRMAN. What have you to say with respect to including the oil rights?

Mr. WELCH. I don't think the oil should be withheld. I think it would make it much more attractive for it to go along with the land.

The CHAIRMAN. You think the contract should provide for all minerals?

Mr. WELCH. Yes.

The CHAIRMAN. Coal, asphalt, oil, and whatever else might hereafter be discovered?

Mr. WELCH. That is my judgment; yes, sir.

The CHAIRMAN. Are there any other questions?

(There was no response.)

The CHAIRMAN. We thank you for your appearance here.

Mrs. Lewis, do you care to get in the record?

STATEMENT OF ESTHER NASH LEWIS, ANTLERS, OKLA.

The CHAIRMAN. Will you state your full name for the record?

Mrs. LEWIS. Esther Nash Lewis.

The CHAIRMAN. Where do you reside?

Mrs. LEWIS. Antlers, Okla.

The CHAIRMAN. Are you a member of either of these two tribes of Indians?

Mrs. LEWIS. I am a Chickasaw.

The CHAIRMAN. Were you born in the Chickasaw Nation?

Mrs. LEWIS. I was born in the Choctaw Nation in the old Indian Territory.

The CHAIRMAN. Have you had occasion to consider the provisions of the bill before the committee, Senate 314?

Mrs. LEWIS. Yes, sir, I have; and I am very much in favor of it. I think everything has been said much better than I can say it.

The CHAIRMAN. Is it your opinion that the Indians understand what is proposed in the bill?

Mrs. LEWIS. I think so. I think every Choctaw and Chickasaw I know has wanted this as far back as I can remember. I know my grandfather wanted it, and my husband has worked for it.

The CHAIRMAN. Your husband is also a Chickasaw?

Mrs. LEWIS. My husband is a Choctaw.

The CHAIRMAN. Your nations get along together?

Mrs. LEWIS. Well, I am rather a foreigner, but we get along.

The CHAIRMAN. At one time your husband occupied some official position, did he not?

Mrs. LEWIS. He was Choctaw national attorney. During the Hoover administration he introduced a bill and he has worked for this thing.

The CHAIRMAN. Where is he located at the present time?

Mrs. LEWIS. He is now a military observer stationed at Gibraltar.

The CHAIRMAN. What is his rank in the Army?

Mrs. LEWIS. Major.

Senator CHAVEZ. Have you had an opportunity to discuss the provisions of the bill with your neighbors among the Chickasaws?

Mrs. LEWIS. Yes, sir, Senator; I have. This is what we have wanted for so long. I know it is what they want.

The CHAIRMAN. Thank you very much, Mrs. Lewis.

Is there anyone else present who wishes to make a statement for the record?

Mr. SHORT. Senator Thomas, I would like to make a remark about one thing that I don't believe has been mentioned, in regard to the asphalt lands. As I understand it, and I think I am right about it, there are only about 3,000 acres of the asphalt lands. They are located, I believe, in Murray and Carter Counties, and they definitely have oil and gas value. I think that should be stated.

The CHAIRMAN. If this bill should pass, the contract would probably cover asphalt values along with the oil and gas.

Mr. SHORT. We want to clean up everything.

The CHAIRMAN. That is the desire of your organization?

Mr. SHORT. Yes. That is the desire of the organization.

The CHAIRMAN. Are there any further suggestions?

Representative STEWART. We have a meeting at 10 o'clock in the morning before the Committee on Indian Affairs of the House, and I want each one of you to be in attendance, because we want to make the best record there possible. I hope we do as well there as we did here. Sometimes they question you over there and kill at lot of time. We will try to avoid very much of that.

The CHAIRMAN. Mr. Bradshaw, will you come up in front, please?

STATEMENT OF C. R. BRADSHAW, CHIEF OF THE MINERALS DIVISION, GENERAL LAND OFFICE

The CHAIRMAN. For the record, state your full name.

Mr. BRADSHAW. C. R. Bradshaw.

The CHAIRMAN. What is your official position with the Government?

Mr. BRADSHAW. Chief of the Minerals Division of the General Land Office.

The CHAIRMAN. Are you familiar with the provisions of the bill before the committee, Senate 314?

Mr. BRADSHAW. Generally; yes.

The CHAIRMAN. Have you any suggestions to make for the committee?

Mr. BRADSHAW. Yes, sir. I want to speak about section 4 of the bill. Section 4 provides the disposition that shall be made of the land and the mineral deposits after they shall have been purchased by the Government, that they shall become a part of the public domain and the minerals shall be subject to disposal under the mining and mineral leasing laws. Now, the mineral leasing laws would provide for the disposal of coal and any oil that may exist in the land, The asphalt under present laws would have to be disposed of under the general mining laws. The general mining laws, I might say, do not now apply to any land in Oklahoma. They never have applied to the State, but only to small portions of the State. The mineral leasing laws as applied to the public lands apply to all of the State except the eastern part, and there the Indian leasing laws are applicable. If the asphalt is purchased at a fair price by the Government, and I suppose it would be under the bill, and is disposed of under the mining laws, the Government would not receive anything for the asphalt.

Under the mining laws, locations are made by any citizen who, by that act, acquires the right to mine or convert to his possession and sale all the minerals contained in the land without any payment to the Government whatsoever. If he wants a patent, he is required to pay a certain price per acre for the land. I assume the asphalt probably would be located under the placer mining laws, and under those laws the price for the land is \$2.50 per acre.

The CHAIRMAN. Isn't it a fact that the asphalt is more of a surface deposit, rather than a subsurface deposit?

Mr. BRADSHAW. Yes, sir. It is very near the surface as a general rule. Asphalt is a petroleum product. It comes from the same source as oil and gas, and the reason for its present condition is its exposure to the air. It may have been exposed to a certain amount of air underground and have become consolidated as asphalt, but as a general rule it is either on the surface or very near the surface.

As I understand it, it is probable that the only minerals in the land are coal, asphalt, oil, and gas. At least, there is the possibility of oil and gas. As the oil, gas, and coal would be disposed of under the leasing laws, and the United States would derive revenue from those minerals, I see no particular reason why a different treatment should be accorded asphalt, but if asphalt is disposed of under the general mining laws, complications are likely to develop in this area.

If asphalt is contained in land known to be valuable for coal, it would not be subject to disposal at this time under the mining laws because the leasing laws provide that lands valuable for coal shall be disposed of only under the leasing law. The same is true of oil and gas.

On the other hand, if a location should be made for asphalt not then known to be valuable for oil—not definitely known to be valuable for oil—the locator of the asphalt would be entitled to all the minerals thereafter discovered in the land, which would include oil and gas.

So that as the bill now stands, there would undoubtedly be conflicts, and it would result either in a substantial amount of the asphalt being closed to disposal until such time as the oil, coal, and gas was completely exhausted in the land, or it would result in the free disposal, not only of the asphalt but of the deposits of coal, oil, and gas.

Last year we suggested a substitute to section 4 which would provide for leasing asphalt deposits as well as oil and gas, and would provide the general machinery for putting that into effect.

The CHAIRMAN. That is on condition, of course, that the Government would finally become owner of the asphalt?

Mr. BRADSHAW. That is assumed that the contract should be executed and approved by Congress; yes.

The CHAIRMAN. Would it be your recommendation that this enabling act, so-called, should contain this amendment, or wait until the Government actually becomes owner of the oil and gas and coal and asphalt, and then make provision for its proper disposition?

Mr. BRADSHAW. Well, as I understand the bill, as presently drawn, it does make provision for the disposition—that is, it provides that the minerals shall be disposed of under the mining leasing laws. As long as it does, I think an amendment would not only be proper but desirable, because the Government will pay a lot of money for this asphalt as well as the coal and oil.

Senator CHAVEZ. If it is subject to the mining laws, naturally people will go down there and locate immediately.

Mr. BRADSHAW. Just as soon as it becomes open it will be immediately tied up. Whether it will be immediately developed, will depend on the people who locate it, and whether they feel it is justified.

The CHAIRMAN. Have you given consideration to an amendment which you think should be added to the bill?

Mr. BRADSHAW. Yes, sir. We recommended a substitute section 4 in the last session of Congress in connection with a similar bill, which I am satisfied would fully cover the situation.

The CHAIRMAN. Is that the text which you placed before the committee members a few minutes ago?

Mr. BRADSHAW. Yes; that is right.

The CHAIRMAN. Then, at your request, if you will make request, we will have this made a part of the record as your suggested amendment.

Mr. BRADSHAW. I will be glad to make that request.

The CHAIRMAN. Then the text will be placed in the record as a suggested amendment to substitute for section 4 of the pending bill.

(The suggested amendment is as follows:)

SEC. 4. The land and mineral deposits when acquired hereunder shall become part of the public domain subject to the applicable public land mining and mineral leasing laws. The coal deposits acquired hereunder may be leased in accordance with the provisions relating to coal of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended. The asphalt deposits acquired hereunder may be leased by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations prescribe, and in areas not exceeding 640 acres each. Leases for such asphalt deposits shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 25 cents per ton of 2,000 pounds of marketable production, and upon payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and \$1 per acre per annum thereafter during the continuance of the lease, such rental for any lease year to be credited against royalties accruing for that year. Leases for such asphalt deposits shall be for a period of 20 years, with preferential right in the lessee to renew the same for successive periods of 10 years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of such periods. All asphalt leases issued hereunder shall be subject to such further terms and conditions, not inconsistent herewith, as may be incorporated in each lease or

prescribed by general regulations adopted by the Secretary of the Interior prior to the issuance of the lease, including covenants relative to mining methods, waste, period of preliminary development, initial investment, and minimum production. The Secretary of the Interior is authorized to modify or amend as to area any asphalt lease issued hereunder upon application of the lessee if he finds such modification or amendment to be to the best interests of the United States and of the lessee. The general provisions of sections 1, 27, 29 to 34, inclusive, 37, and 38 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended, shall apply to asphalt leases issued under the provisions of this act, sections 1, 34, and 37 thereof being amended to include deposits of asphalt acquired hereunder, and section 27 thereof being amended to provide that no person, association, or corporation shall take or hold more than 2,560 acres under asphalt lease at any one time. The entire net income from coal and asphalt leases issued under this act shall be deposited in the general fund of the Treasury of the United States.

The CHAIRMAN. We thank you for your statement, Mr. Bradshaw. Does anybody else desire to make an additional suggestion?

Will you state your name and your connection with the Government?

STATEMENT OF J. C. McCASKILL, ASSISTANT TO THE COMMISSIONER, OFFICE OF INDIAN AFFAIRS

Mr. McCASKILL. J. C. McCaskill. I am assistant to the Commissioner in the Office of Indian Affairs.

The CHAIRMAN. You may proceed with your statement.

Mr. McCASKILL. Mr. Chairman, the Department has not made a report on the specific bill which is before the committee. It is very similar, however, to the bill which was before the committee last year on which the Department did make a report, and I have here copies of that report for anyone who is interested in glancing at it.

The CHAIRMAN. That report is printed in the hearings as the same were printed after the meetings last year?

Mr. McCASKILL. That is correct.

The CHAIRMAN. It will not be necessary to reprint the report because the report will be found at the first part of the hearings.

Mr. McCASKILL. That is correct. In that report attention is called to the fact there is no time limit in which Congress might act, and the Commissioner, before he left, spoke of the desirability of making some time limit. I have here the wording of a proposed amendment which would accomplish that.

One other thing which I want to call attention to is the proposal of the Department that a clause be inserted at some point and we recommend it be done in section 2, that the payments provided for herein shall be deemed full satisfaction of all claims of the Choctaw and Chickasaw Nations which they may have against the United States on account of any withholding from sale, failures to sell, or delay in selling any of the coal and asphalt deposits of said nations. This is included as a part of the proposed recommendations for section 2.

The CHAIRMAN. That will be printed as a part of your recommendation.

(The recommended amendment to sec. 2 is as follows:)

It is recommended that section 2 of the bill be amended to read as follows:

"SEC. 2. Upon such contract becoming effective—

"(a) The amount of the purchase price fixed in the contract shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of

the Treasury of the United States and shall be expended only as may be authorized by Congress.

"(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying to the United States all right, title, and interest of said Indians in such lands and mineral deposits as may be covered by the contract and thereupon all right, title, and interest of the Choctaw and Chickasaw Nations shall vest in the United States. The payment provided for herein shall be deemed a full satisfaction of all claims the Choctaw and Chickasaw Nations may have against the United States on account of any withholding from sale, failure to sell, or delay in selling any of the coal and asphalt deposits of said nations."

Mr. McCASKILL. This is the proposal for the time limit.
(The recommended amendment to sec. 1 is as follows:)

It is recommended that the last sentence of section 1, beginning at line 13, page 2, be stricken and the following be substituted:

"The contract shall become effective upon the expiration of 60 calendar days after the date on which it is transmitted to Congress, but only if during such 60-day period there has not been passed by the two Houses of Congress a concurrent resolution stating in substance that Congress does not favor the contract. If Congress adjourns sine die before the expiration of the 60-day period, a new 60-day period shall begin on the opening day of the next succeeding regular or special session. A similar rule shall be applicable in the case of subsequent adjournments sine die before the expiration of 60 days."

Mr. McCASKILL. Then, of course, the rewriting of section 4 looking toward the disposal of the lands, which Mr. Bradshaw has already explained. Those are the proposed amendments which the Department has suggested be made to the bill as it now stands.

I think I have no other comments, Mr. Chairman, unless there are some questions.

The CHAIRMAN. Well, we thank you for your statement to the committee and the committee will consider the amendments suggested by yourself and by Mr. Bradshaw and the other members who have testified.

Does anyone else have any suggestion to be made for the record?
(There was no response.)

The CHAIRMAN. If not, I declare the hearing closed.

I hope you will all be able to attend the hearing in the House tomorrow so that the members of that committee may be as fully advised as the members of our committee.

(Whereupon, at 1 p. m., the hearing was closed.)

(The following was submitted for the record:)

OKLAHOMA CITY, OKLA., July 1, 1943.

United States Senate Committee on Indian Affairs:

I should like to submit a statement at your meeting on July 6.

I am in favor of this sale of coal and asphalt deposits, Choctaw and Chickasaw Nations, Oklahoma, also a winding up of the tribal affairs.

Sincerely,

Mrs. ZORA DANIEL.

OKLAHOMA CITY, OKLA., July 1, 1943.

United States Senate Committee on Indian Affairs:

I should like to submit a statement at your meeting on July 6.

I am in favor of this sale of coal and asphalt deposits, Choctaw and Chickasaw Nations, Oklahoma, also a winding up of the tribal affairs.

Sincerely,

Mrs. MYRTLE JAMES.

KEOTA, OKLA., June 29, 1943.

Senator ELMER THOMAS,

Senate Office Building, Washington, D. C.

DEAR SENATOR THOMAS: I received copy of the printed hearings on the bill proposing to authorize the sale of our coal, asphalt, and mineral deposits, together with your letter dated June 21.

In this connection I wish to advise that I am in favor of our deposits being sold and hope the sale can be made in the near future.

Yours very truly,

JOHN JONES.

DURANT, OKLA., July 5, 1943.

HON. ELMER THOMAS,

Chairman, Committee on Indian Affairs, United States Senate,

Washington, D. C.

DEAR SENATOR THOMAS: I should like to submit a statement for the record on the bill proposed to authorize the sale of the Choctaw-Chickasaw coal, asphalt, and mineral deposits.

We are of the opinion that the United States Government should by all means purchase these lands from the Choctaws and Chickasaws, and it is high time that the Indian Bureau be abolished and make the Indian a free American citizen. Indeed, the Indian race is the one which the people of the United States have most to dread at the judgment bar of Almighty God.

ORA O'RILEY.

SEAMAN AUTO Co.,
Mineral Wells, Tex., July 1, 1943.

HON. ELMER THOMAS,

Chairman, Senate Indian Affairs Committee,

Washington, D. C.

DEAR SENATOR THOMAS: I want to thank you for your effort on behalf of the Chickasaw-Choctaw Nations. We appreciate your work greatly.

And thanks also for an opportunity to make a statement for the records with reference to the sale of holdings of the Choctaws and Chickasaws and a complete settlement of this longstanding obligation. I want to say this:

The Government made a promise in 1902 that they would sell these holdings and pay out inside of 3 years. For 40 years this property has been administered at a very heavy expense and the Chickasaws and the Choctaws have derived very little from the proceeds of sales and contracts, most of the money going to administrative expenses. Records show that over 6 million dollars has come into the hands of the administrators, and only something over 2½ million dollars has gone into the hands of the Indians. More than 50 percent has gone into administrative purposes.

The holdings are fast being disposed of and the value of the properties diminishing and sooner or later, under the present set-up, everything will be gone and the money received will not have served the Indians of these two tribes at large.

I believe I am safe in saying that 95 percent of the Indians favor the bill offered in S. 314, Seventy-eighth Congress, and would be of the same opinion I am; that the quicker these lands are disposed of and the Indian affairs of the Chickasaws and Choctaws settled, the better for all concerned, both the Indians and the Government.

Again thanking you and wishing for an early settlement of these things, I am
Sincerely yours,

OTIS BURRIS.

DURANT, OKLA., June 30, 1943.

HON. ELMER THOMAS,

Washington, D. C.

DEAR SENATOR: I am pleased to acknowledge receipt of hearings before a subcommittee of the Committee on Indian Affairs of the United States Senate.

I will say in behalf of myself and all my immediate friends we are very much in favor of selling all holdings as our rights as Chickasaws and Choctaws

are concerned because these Indians are passing to the great beyond and if we ever get our coal, mineral, and asphalt lands sold, now is the time and not tomorrow. If we fail to get anything done during this administration we are forever doomed as I look at the situation.

Now, Thomas, if you think what I have said is of any importance you may do as you desire with this.

Yours truly,

CHAS. C. BARKER.

DEAR SENATOR: With your permission I desire to make this statement for your record. As I see it regarding the sale of our mineral deposits, it is nothing but right that it should be sold, for according to the Atoka agreement that was agreed upon between the Choctaws and the Chickasaw Indians and the Federal Government a good many years ago. The only trouble is that the Government of the United States failed to fulfill its part of that agreement. So as I see it, it is left up to the whole entire Representatives in Congress both Members of the Senate and the House, that the United States Government is to no longer be considered as guilty of perfidy and dishonor, and when the sale is made the money be paid out to all of the legally enrolled members of the two tribes, both living and dead, as heretofore; the unrestricted be paid out direct and the payments to the restricted be made according to the Secretary of the Interior as he sees fit in their best interest.

What I mean by that is that each individual Indian who is legally entitled to it be paid out according to share and share alike and no more and no less.

I favor the sale of the coal and asphalt deposits because of the fact that it has been rocking on for the past good many years and that more than half of our fellow tribesmen have passed away into their happy hunting grounds without ever realizing their share of those properties because of the failure on the part of the Government of the United States.

Because the Government no doubt needs the property at this time I favor the sale of it, too, because the surface has been sold, as I understand it. I demand the sale also because I want my just part of what belongs to me while I am living and can enjoy it by getting its just benefits, the same as anyone. I am,

Yours very truly,

DAVIS J. WESLEY.

BOYD B. HORSMAN, INSURANCE,
Sulphur, Okla., July 3, 1943.

Senator ELMER THOMAS,

Committee on Indian Affairs, Washington, D. C.

DEAR SENATOR: I am a full-blood Indian of the Chickasaw Tribe and enrolled under No. 2758 and my daughter, Margaret Hawkins, now Chadwick roll No. 125, and Lon Hawkins, my son, roll No. 282. We are all in favor of a full settlement of the sale of the coal, asphalt, and mineral deposits. I am

Respectfully yours,

GEORGE HAWKINS.

LIONS CLUB,
Talihina, Okla., April 8, 1943.

We, the Lions Club of Talihina, LeFlore County, Okla., wish to submit to those whom it may concern the following resolution enacted at a regular meeting, Tuesday, April 6, 1943:

The club recommends by unanimous vote that the bills before the United States Senate and House of Representatives concerning the sale of coal and asphalt lands and deposits of the Choctaw and Chickasaw Tribes of Indians in Oklahoma be enacted. They are Senate bill 314 and House bill 1859, introduced by Senator Elmer Thomas and Congressman Paul Stewart, respectively.

We make this recommendation for the following reasons:

First, we have reached the conclusion through the Choctaw Indian population, which lives in and surrounds our community, which is located almost in the exact center of the Choctaw Nation, that the majority of the tribe are in favor of the sale of the coal and asphalt lands.

MARLOW, OKLA., September 14, 1942.

HON. ELMER THOMAS,
Washington, D. C.:

I am enclosing folder of names of Chickasaw and Choctaw Indians as you instructed in your meeting at Ardmore, Okla.

Respectfully,

JOHN C. SHORT.

We, the undersigned members of the Chickasaw and Choctaw tribes of Indians residing in the State of Oklahoma are in favor of the sale of the coal and asphalt lands located in the State of Oklahoma to the United States Government as set out in the Lee-Cartwright bill and the proceeds to the members of the tribes.

LeRoy Band, Marlow, Okla.; Lula E. McKinney, nee Doak, Marlow, Okla.; Ode Short, Marlow, Okla.; Paul Jones, Marlow, Okla.; Winburn Jones, Marlow, Okla.; Fannie Jones, Marlow, Okla.; Mrs. Jesse H. Jones, Marlow, Okla.; Claude Percival, Route 1, Marlow, Okla.; Martha Jane Edwards, nee Tussy, Marlow, Okla.; Dora E. Waters, nee O'Quin, Marlow, Okla.; Ottis Percival, Marlow, Okla.; Bob Guernsey; Clinton Whitehead, Marlow Okla., Star Route; Willie M. Whitehead, nee Henderson, Marlow, Okla., Star Route; Robert D. Hinderson, Marlow, Okla.; Benjamin F. Henderson, Marlow, Okla.; Clyde E. Stanton, Marlow, Okla.; Mitchell Gibson, Marlow, Okla.; Thomas Jones, Marlow, Okla.; Myrtle J. Goad, nee Burke, Marlow, Okla.; Hames M. Short, Marlow, Okla.

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**TO PURCHASE COAL AND ASPHALT LANDS FROM
THE CHOCTAW AND CHICKASAW INDIANS**

**HEARINGS
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
HOUSE OF REPRESENTATIVES**

SEVENTY-EIGHTH CONGRESS

FIRST SESSION

ON

H. R. 1859

**A BILL TO AUTHORIZE THE PURCHASE OF CERTAIN
INTERESTS IN LANDS AND MINERAL DEPOSITS
BY THE UNITED STATES FROM THE CHOCTAW
AND CHICKASAW NATIONS OF INDIANS**

JULY 7 AND 8, 1943

Printed for the use of the Committee on Indian Affairs



**UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1943**

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TO PURCHASE COAL AND ASPHALT LAND FROM THE CHOCTAW AND CHICKASAW INDIANS

WEDNESDAY, JULY 7, 1943

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INDIAN AFFAIRS,
Washington, D. C.

The committee met at 9:30 a. m., Hon. John R. Murdock, presiding; other members present were: Patton, Fernandez, Winstead, Burdick, Gale, Holmes, Arnold.

Mr. MURDOCK. Gentlemen, the committee will be in order. We are meeting this morning to consider H. R. 1859, which is as follows:

[H. R. 1859, 78th Cong., 1st sess.]

A BILL To authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to enter into a contract on behalf of the United States for the purchase from the Choctaw and Chickasaw Nations of Indians in Oklahoma for all the present right, title, and interest of said Indians in the land and mineral deposits reserved from allotment in accordance with the provisions of section 58 of the Act entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw Tribes of Indians, and for other purposes", approved July 1, 1902. The Secretary shall cause such contract to be executed on behalf of said Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, and shall then submit such contract to said Indians for their approval. If and when such contract has been approved by said Indians, the Secretary shall submit the contract to the Congress for its ratification: *Provided*, That the approval of such contract by the said Indians shall be through a special election called and held pursuant to rules and regulations to be promulgated by the said Secretary of the Interior. Such contract shall not be binding upon any of the parties thereto until it shall have been ratified by the Congress

SEC. 2. Upon the approval of such contract by the Congress—

(a) The amount of the purchase price fixed in such contract when appropriated shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasurer of the United States, and thereafter such money shall be distributed to such Indians on a per capita basis and shall be exempted from attorney fees and other debt contracted prior to the enactment of this Act; and

(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying all right, title, and interest of said Indians in such lands and mineral deposits to the United States, and thereupon all such right, title, and interest shall vest in the United States.

SEC. 3. The appropriation of such sum as may be necessary for making the payments to such Indians pursuant to section 2 (a) of this Act is hereby authorized. There is also authorized to be appropriated the sum of \$20,000 to be expended under the direction of the Secretary of the Interior, to defray the expenses of negotiating the contract and the holding of the election authorized

by section 1 hereof, including the making of such appraisal or appraisals as may be deemed necessary.

Sec. 4. The land and mineral deposits when acquired hereunder shall become a part of the public domain subject to the applicable public land mining and mineral leasing laws.

We will now hear from Congressman Paul Stewart, of Oklahoma, author of the bill.

STATEMENT OF HON. PAUL STEWART, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF OKLAHOMA

Mr. STEWART. Mr. Chairman and members of the committee, I would like to be permitted to make a few preliminary statements regarding H. R. 1859.

This bill was before the Seventy-seventh Congress, introduced by my predecessor, and also in the Senate by Senator Thomas of Oklahoma.

The object of this measure is what you might term an enabling act to authorize the United States Government to purchase the coal and asphalt lands of the Choctaw and Chickasaw Tribes of Indians in Oklahoma.

These Indians own around 378,000 acres, and this bill is merely in keeping with a sacred, solemn treaty made in 1902 in which the Government proposed and agreed to buy these lands. The legal aspects will be discussed later by Judge D. C. McCurtain, a district judge in Oklahoma, who understands the legal ramifications.

These Indians have held this property for more than 40 years. The Interior Department has leased portions of these lands which is absorbed in the way of administration and these Indians are receiving no benefits.

They have reached the point where they want to go out of business as a tribal government, and they have about reached the point where they are about to take away all the public offices of us white folks.

In order to expedite matters, I would like to present these public officials from my State. I would like first to present Hon. Ben Dwight.

At this point, Mr. Chairman, I should like to supplement my remarks with a written statement I have prepared.

Mr. MURDOCK. Very well. The statement will be received.
(The statement referred to is as follows:)

STATEMENT OF CONGRESSMAN PAUL STEWART, OF OKLAHOMA

All the lands belonging to the Choctaw and Chickasaw Indians were owned in common from 1837 (when the Chickasaw Tribe was moved to the West where the Choctaws were already located) until 1898 when plans were being made for the formation of the State of Oklahoma. In 1897 the Indians had been persuaded by the United States Government to enter into a treaty by which their communal holdings were to be distributed to the tribesmen per capita, except those tracts containing deposits of coal. Under the terms of this treaty, the Government was obligated to survey these deposits, segregate them from allotment, and sell them within 3 years after the ratification of the treaty (which took place July 28, 1898). The money to be realized from the sale and distributed, was said to be needed by the Indians to develop their allotments. By this treaty of 1898, as well as by another in 1902, the Government solemnly promised to carry out the latter provision. Within a year after the treaty of 1902, the Department of Interior decided that it would be to the better interest of the

Indians to lease the deposits rather than sell them, and asked Congress for enabling legislation which was passed in 1904. In recent years, because of a decline in their value, an attempt has been made to get the Government to purchase the deposits.¹

ARGUMENTS

1. The United States Government by two treaties (1898, 1902) solemnly promised the Indians to sell their coal lands and divide the proceeds per capita.²

2. The Indians want to sell the coal lands (their tribal estate). As a group they have been absorbed into the body politic. They want to wind up their tribal affairs.³

3. Except for a slight pick-up during the First World War, the income from the coal leases has continuously decreased since 1915. The Indians have consistently demanded sale of the deposits. Under the leasing program, the rank and file have received no revenue from the deposits since 1928; small sums have been paid for the salaries of tribal officials. There is little demand for leases now.⁴

4. The value of the deposits has greatly depreciated due to competition from oil and natural gas. In 1912 the deposits could have been sold for \$30,000,000. The value as of 1942 was \$9,000,000, and there were no buyers.⁵

5. As time goes on, the tribal population increases. If the property remains intact for another 41 years, it would cost more to locate the heirs than the distributee's share would amount to when they were found.⁶

6. Failure to settle the case as promised has had a bad effect on Indian morale. Many do nothing but sit around waiting for the day when they will come into their inheritance from coal.⁷

7. The time will eventually come when the reserves of natural gas and fuel oil will have been consumed to such a point that gas and oil will be conserved for purely domestic purposes and then these Indian coal deposits will need to be mined to supply the railroads and industries of the Southwest. But the Federal Government should not impose upon these tribes the burden of acting as a fuel conservation agency for future generations of white men.⁸

8. American coal reserves are large but not inexhaustible. Every effort should be made to conserve the supply. The purchase of the deposits by the Government and their exploitation by private companies through the medium of the leasing system, would permit an effective program of control and regulation. Under the system, the Government could insert as matters of contract, and conditions to which lessee voluntarily consents, those regulations which would promote the public interest (such as safe, efficient, and thorough mining), the enforcement of some of which by mandatory law would be unconstitutional. Such a program could also make provisions to fix reasonable selling prices, thus preventing disastrous cutthroat competition, and the leases could be geared to fluctuate with the demand for coal, preventing overproduction. The consuming public would also benefit because the royalties charged producers could be regulated to control the prices charged the consumer.⁹

9. A program of leasing without minimum tonnage requirements would permit operators to buy private coal rights which they would exploit, and lease mineral rights from the Indians which they would hold as reserve. In this way, they could secure reserves without putting out any money.¹⁰

10. The purchase by the United States of the land and mineral deposits reserved from allotment would place the Government in a position to these deposits similar to that which it maintains with respect to lands held under the Leasing Act of 1920. This act contemplates a severance of the mineral estate

¹ U. S. Congress, Senate, Committee on Indian Affairs (77th Cong.) A bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations, Oklahoma. Hearings on S. 1542. February 2-3, and March 3, 1942. 101 p.

² *Ibid.* p. 37.

³ *Ibid.* p. 49.

⁴ *Ibid.* p. 38.

⁵ *Ibid.* pp. 40, 41.

⁶ *Ibid.* p. 42.

⁷ *Ibid.* p. 48.

⁸ *Ibid.* p. 49.

⁹ U. S. Department of the Interior, Bureau of Mines. Alaskan Coal Problems. Walter J. Fisher. Washington, Government Printing Office, 1911, 9 p. McDonald, Thomas P., Coal Lands: Leasing of Coal Lands in the United States and Other Countries. Washington, Government Printing Office, 10 p. Gustafson, A. F., H. Ries, C. H. Guise, and W. J. Hamilton, Jr. Conservation in the United States. Ithaca, N. Y., Comstock Publishing Co., 1939, p. 384-391.

¹⁰ *Op. cit.*, supra. P. 84.

from the estate in the surface and the separate disposal of each. The Government, in executing mineral leases of such lands, reserves the right to lease, sell, or otherwise dispose of the surface of the lands embraced within the lease, insofar as the surface is not necessary for the use of the lessee.¹¹

11. This condition is somewhat similar to that now maintained in Great Britain where the ownership of coal mines is in the Government while the coal-mining industry itself is a private enterprise.¹²

12. The extent of the mineral leasing activities of our General Land Office under the Leasing Act of 1920 and certain other acts is shown below.

Mineral leases, permits, and licenses outstanding,¹ as of June 30, 1942²

	Leases		Permits		Licenses		Total	
	Number	Acres	Number	Acres	Number	Acres	Number	Acres
Coal.....	372	71,284	124	89,607	99	3,193	595	164,084
Oil and gas.....	³ 3,325	2,562,222	⁴ 14	27,477			3,339	2,589,699
Phosphate.....	7	4,938					7	4,938
Potash.....	20	47,092	1	2,539			21	49,631
Sodium.....	4	1,873	101	156,641			105	158,514
Total.....	3,728	2,687,409	240	276,264	99	3,193	4,067	2,966,866

¹ Act of Feb. 25, 1920 (41 Stat. 437), and other acts.

² Annual Report of the Secretary of the Interior, fiscal year ended June 30, 1942, p. 137 (condensed war edition).

³ 1,453 producing leases (690,919 acres); the remainder are prospecting leases.

⁴ Number of oil and gas permits in Alaska.

L. E. Beane, Apr. 3, 1943, Economics Section.

GOVERNMENT CONTROL AND OWNERSHIP OF COAL MINES IN GREAT BRITAIN

Early regulation of coal mining in Britain was mainly directed toward improving working conditions of miners.¹³ During the First World War, various steps were taken to insure production and price control by the Government.¹⁴ Growing competition of foreign coal mines in the export markets of the world, coupled with the maintenance of a minimum wage level for miners and with the development of rival fuel sources, led to depression in the British coal industry. To escape this depression, the payment of subsidies to mine operators was authorized by Parliament in 1925.¹⁵

The question of nationalizing the coal industry in Great Britain was complicated by the incidence of double ownership of the assets in question: The ownership of the mineral was vested in the landowners who were therefore entitled to royalties payable by the owners of the mines; the ownership of the industrial equipment and of the mined coal was vested in the mine owners. At different times, proposals were made to nationalize, with or without compensation, either the title of the land and mineral owners—and therefore their claim to royalties—or the ownership and management of the mines themselves, or both. These proposals were considered by two commissions that were set up to investigate the coal industry: One under Sir John Sankey in 1919; the other under Sir Herbert Samuel in 1925.¹⁶ The Sankey Commission divided on the question of nationalization in both its aspects, whereas the Samuel Commission concluded against nationalization of the mine-operating industry but in favor of nationalization, by purchase, of the title to the mineral and of royalties.

Several acts of Parliament were adopted with a view to reorganizing conditions in the coal-mining industry.¹⁷ The most important of these acts were

¹³ 30 U. S. C. annotated 181-287; *Kinney-Coastal Oil Co. v. Kieffer* (277 U. S. 488).

¹⁴ See Coal Act, 1938, 1 and 2, Geo. 6, ch. 52; 31 Halsbury's Complete Statutes 455.

¹⁵ See the discussion of the topic in the *Encyclopaedia Britannica*, 14th ed., vol. 5, Coal and Coal Mining, sec. 9. Also see Halsbury's Complete Statutes of England, vol. 12: Mines, Minerals, and Quarries, Preliminary Note, p. 4-9.

¹⁶ *Encyclopaedia Britannica*, *ibid.*, sec. 11.

¹⁷ Report of the Royal Commission on the Coal Industry, 1925 (Command 2600, 1926), p. 222-224.

¹⁸ Interim Reports, Coal Industry Commission 1919 (Command 84-85, 1919); Reports, Coal Industry Commission 1919 (Command 359-361, 1919); Report of the Royal Commission on the Coal Industry 1925 (Command 2600, 1926).

¹⁹ For the texts of earlier acts, up to 1926, see: Halsbury's Complete Statutes of England, vol. 12, "Mines, Minerals, and Quarries," pp. 12-208.

the Coal Mines Act, 1911,¹⁸ the Mining Industry Act, 1920,¹⁹ the Mines (Working Facilities and Support) Act, 1923,²⁰ the Mining Industry Act, 1926,²¹ the Coal Mines Act, 1930,²² and the Coal Act, 1938.²³

The Coal Mines Act, 1911, deals principally with working conditions in the mines. The Mining Industry Act, 1920, institutes a Department of Mines with supervisory powers over the industry. The Mines Act, 1923, interposes public authority in relations between land-owner and tenant in connection with the operation of mines. The Mining Industry Act, 1926, provides for absorption and amalgamation of several mining undertakings by decision of government agencies on the proposal of one or more colliery owners "in the interests of the more economical and efficient working, treating, or disposing of coal"; it further provides that before undertaking to search for coal or working new collieries, application must be made to the government and that permission will be granted if it is considered "that it is expedient in the national interest that the right should be granted to the applicant"; it also provides, i.a. for preference in mining employment to former miners and war veterans, for joint mine committees representing management and employees, and permits the establishment of profit-sharing schemes notwithstanding any provisions to the contrary in the companies' articles of association. The Coal Mines Act, 1930, regulated production and prices of coal by districts, by cooperative action of the mine owners or, in default, by the Government; it also authorizes the Government to bring about enforced amalgamation and absorption of mines in the interest of economic efficiency, in cases where the mine owners do not make use of the amalgamation procedure under the 1926 act; for this and other purposes, a Coal Mines Reorganization Commission is to be appointed by the Board of Trade.

Finally, the Coal Act, 1938, makes provision for the nationalization of "royalties," i. e. for the compulsory acquisition by the Government of the ownership of the ground and the mineral resources and its vesting in a Coal Commission to be appointed by the Board of Trade. The previous owners are to be compensated. Under this act, the coal-mining industry itself remains a private enterprise. The act further tightens existing controls over production and sale of coal. The functions of the Coal Mines Reorganization Commission are transferred to the Coal Commission, and the new body is charged with the duty of reducing the number of coal mines in the interests of efficiency.

Government supervision of the coal-mining industry is carried on by statutory rules and orders, in accordance with the statutes cited above.²⁴ Since the war, additional stringent powers of control over the coal-mining industry are wielded by the Government under its emergency powers, notably under regulations 55, 56B, 59, and 60B of the Defense (General) Regulations, 1939-1943.²⁵

Later acts of Parliament dealing with the coal-mining industry, other than those cited *infra*, notes 7-11, are the following:

Mining Industry (Welfare Fund) Act, 1931 (21 and 22 Geo. 5, ch. 23; 24 Halsbury's Complete Statutes 283).

Coal Mines Act, 1931 (21 and 22 Geo. 5, ch. 27; 24 Halsbury's Complete Statutes 284).

Coal Mines Act, 1932 (22 and 23 Geo. 5, ch. 29; 25 Halsbury's Complete Statutes 215).

Mining Industry (Welfare Fund) Act, 1934 (24 Geo. 5, ch. 9; 27 Halsbury's Complete Statutes 439).

Mines (Working Facilities) Act, 1934 (24 and 25 Geo. 5, ch. 27; 27 Halsbury's Complete Statutes 442).

Coal (Registration of Ownership) Act, 1937 (1 Edw. 8 and 1 Geo. 6, ch. 56; 30 Halsbury's Complete Statutes 655).

Coal Mines (Employment of Boys) Act, 1937 (1 Edw. 8 and 1 Geo. 6, ch. 62; 30 Halsbury's Complete Statutes 664).

Mining Industry (Welfare Fund) Act, 1939 (2 and 3 Geo. 6, ch. 9; 32 Halsbury's Complete Statutes 501).

Mining Industry (Amendment) Act, 1939 (2 and 3 Geo. 6, ch. 45; 32 Halsbury's Complete Statutes 505).

¹⁸ 1 and 2 Geo. 5, ch. 50; 12 Halsbury's Complete Statutes 82.

¹⁹ 10 and 11 Geo. 5, ch. 50; 12 Halsbury's Complete Statutes 173.

²⁰ 13 and 14 Geo. 5, ch. 20; 12 Halsbury's Complete Statutes 181.

²¹ 16 and 17 Geo. 5, ch. 28; 12 Halsbury's Complete Statutes 193.

²² 10, 20, and 21 Geo. 5, ch. 34; 23 Halsbury's Complete Statutes 371.

²³ 1 and 2 Geo. 6, ch. 52; 31 Halsbury's Complete Statutes 455.

²⁴ For more detailed provisions, see Statutory Rules and Orders, under "Coal and Coal Mines." Also see the volumes of the Annual Report of the Secretary of Mines, and various other publications of the Department of Mines (for a list of relevant publications, see the annual Cumulative Index of Government Publications).

²⁵ A text of the Defense (General) Regulations, with amendments up to date, is available in Butterworth's Emergency Legislation Service, sec. 13. Orders affecting the coal-mining industry under these regulations will be found *ibidem*, secs. 13, 38, and 39.

STATEMENT OF BEN DWIGHT, SECRETARY TO GOVERNOR KERR,
OF OKLAHOMA

Mr. DWIGHT. Mr. Chairman and gentlemen of the committee, as I understand the provisions of this bill, and as was so succinctly stated by Congressman Stewart, it is enabling legislation which authorizes and directs the Secretary of the Interior to enter into a contract with the tribal officials for the purchase by the Government of the segregated coal and asphalt lands belonging to these two tribes.

Inasmuch as the details of that contract will probably be left for some subsequent time, I think it would be inappropriate for me to go into a discussion of the proposed provisions of the contract.

I want to make two general observations about this bill. One is that upon the advent of statehood, and in order that statehood might obtain, it was necessary that the status of these tribal lands be converted into a status where the lands would have to be individualized, allotted in severalty, but the acreage about which we are talking today was reserved with the specific promise on the part of the Government that within 3 years after that date in 1902 they would be sold by the Government. All parties in interest thought it was proper that these two nations cease to exist as nations. That was over 40 years ago. During that period of 40 years, these things not having been done, as was agreed upon and as was in keeping with the wish of the Indians, has caused considerable controversy and considerable expenditure on the part of both the Government and the Indians.

We yet would like to see things done that would, even at this late date, carry out substantially the promises and provisions of those agreements. We think this method is the most appropriate approach to doing those things as of this day.

Then, too, as a result or hang-over of those agreements, we find ourselves today entwined with a number of things and meeting a number of obstacles in taking our full and complete responsibility as citizens of the State of Oklahoma because of certain phases of guardianship that still surround our tribal property, and also flowing therefrom phases of guardianship or wardship that surround individual members of these two tribes.

This bill, if enacted into law, and if the provisions are carried out, will go a long way toward erasing those obstacles and permitting a complete and final and appropriate readjustment of the status of the Choctaw and Chickasaw Indians in this State.

With that brief statement I want to say that I, being a Choctaw of three-fourths Indian blood, am heartily in favor of this bill, and I think if this committee explores the opinion of the Choctaws and Chickasaws, they will find that probably not 100 percent, but for the sake of a reasonable statement I will say 99½ percent of the Choctaws and Chickasaws will favor this bill, and that all of them will favor it if and when they understand the provisions of it.

At this point I would like to introduce for the record, without reading it, a resolution, house concurrent resolution No. 16, which was passed by the recent Oklahoma State Legislature, memorializing Congress for legislation similar to the legislation before this committee at this time, and I want to state in that connection that approximately 25 Indians in the State of Oklahoma are in the two houses of

our State legislature, and that the chairman of the house committee on Indian affairs is a Choctaw; the chairman of the senate committee on Indian affairs is a Chickasaw, so this resolution was passed with some thought and deliberation in an effort to get the opinion of the general citizenship before bodies and groups of this sort that were interested in the legislation.

With the permission of the chairman, I will introduce this resolution at this time and ask that it be printed and made a part of the record.

Mr. MURDOCK. Without object, it will be inserted in the record.

(The resolution referred to is as follows:)

HOUSE CONCURRENT RESOLUTION No. 16

(By Parrish, Irby, Wallace (Oklahoma), Massey, Black, Hussey, and Worthington, of the House, and Neill, of the Senate)

A CONCURRENT RESOLUTION MEMORIALIZING THE CONGRESS TO ENACT AND THE PRESIDENT TO APPROVE LEGISLATION AUTHORIZING THE SECRETARY OF THE INTERIOR TO ENTER INTO A CONTRACT WITH THE CHOCTAW AND CHICKASAW TRIBES OF INDIANS IN OKLAHOMA FOR THE PURCHASE BY THE FEDERAL GOVERNMENT OF THE SEGREGATED COAL AND ASPHALT LANDS AND DEPOSITS OF THE SAID TRIBES

Whereas in order that Oklahoma statehood might obtain and that the members of the Choctaw and Chickasaw Tribes of Indians in Oklahoma, numbering approximately 27,000 persons, might enjoy the privileges and assume the responsibilities of citizens of the State and Nation, the said tribes entered into solemn agreements with the Federal Government, providing, in substance, for the liquidation of the tribal governments and the common estate of the two tribes; and

Whereas those agreements (known as the Atoka and Supplemental Agreements) expressly provided, among other things, that the coal and asphalt lands and deposits of the said tribes would be reserved from allotment in severalty and sold by the Federal Government within 3 years after the final ratification of the Supplemental Agreement, on July 1, 1902; and that the proceeds of such sale would be distributed among the members of said tribes upon a per capita basis; and

Whereas contrary to the intentment and express provisions of said agreement and through legislative action of the United States Congress and administrative action of the executive department of the Federal Government, the greater portion (approximately 368,000 acres) of said coal and asphalt lands and deposits have been withheld from sale over a period of 40 years, at times when this estate could have been capitalized to a considerable advantage to the members of the said tribes; and

Whereas because the common estate of the two tribes has not been so liquidated, the said tribes have been compelled to maintain a modified form of tribal government at a continuous and sizable expense; and

Whereas at this time it does not appear that aforesaid coal and asphalt lands and deposits can be sold to private interests at anything like a fair consideration; and

Whereas the Federal Government has urgent need of coal and asphalt in its prosecution of the war; and

Whereas the conservation of natural resources for future generations can better be accomplished by the Federal Government than by the Choctaw and Chickasaw Tribes who have been caused to accept a process of winding up their political autonomy; and

Whereas the confusion and contentions that have developed and now exist because of various phases of guardianship of the Federal Government over the Choctaw and Chickasaw Indians and their property, cause continuing and enormous expenditures on the part of both the Federal Government and the said tribes, a large part of which could be eliminated by a readjustment of the status of the common estate of the two tribes; and

Whereas there is now pending before the Congress of the United States legislation which would authorize the Secretary of the Interior to negotiate with the Choctaw and Chickasaw Tribes of Indians in Oklahoma for the purchase by

the Federal Government of the coal and asphalt lands and deposits of the said tribes: Now, therefore, be it

Resolved by the House of Representatives of the Nineteenth Legislature of the State of Oklahoma (the Senate concurring therein), That the Congress of the United States be memorialized to enact such legislation and that his Excellency, the President of the United States, is petitioned to sign and approve said legislation; and be it further

Resolved, That the Chief Clerk of the House of Representatives, upon the passage of this resolution, shall forward an enrolled copy thereof to each Member of the House of Representatives and of the Senate in the United States Congress, to his Excellency the President of the United States, and a copy to the Secretary of the Department of the Interior.

Adopted by the House of Representatives the 15th day of March 1943.

Adopted by the Senate the 18th day of March 1943.

HAROLD FREEMAN,
Speaker of the House of Representatives.
JACK NEILL,
Acting President of the Senate.

Correctly enrolled:

J. D. McCARTY,
Chairman of the Committee on Enrolled and Engrossed Bills.

Received March 20, 1943, at 9:25 a. m.

F. C. CARTER,
Secretary of State.
By B. R.

MR. DWIGHT. As Congressman Stewart told you, I am a member of Governor Kerr's official family, and would like to state that Governor Kerr was born in a Chickasaw Nation, raised among the Choctaws and Chickasaws, is well informed about their affairs, their problems, their propositions, interested in their general welfare, and believes, and as the Governor of the State of Oklahoma, it is his duty to take cognizance of the special and public problems of Indians as well as other groups in the State, and in pursuance of that attitude and in keeping with his information about this proposition, has made a statement which I should like to read to the committee and ask to be made a part of the record.

My attention has been called to the legislation pending before the Congress which in substance authorizes the Secretary of the Interior to enter into a contract with the principal chief of the Choctaw Nation and the Governor of the Chickasaw Nation for the purchase of segregated coal and asphalt lands and mineral deposits by the United States from the said Indian nations.

In my judgment, this proposed legislation is extremely meritorious and, if enacted into law, will lay down a proper predicate for an equitable settlement of a long-standing controversy between the Federal Government and the two tribes, as well as contribute immeasurably to a timely readjustment of services to the members of said tribes.

My information is that, under the terms of the supplemental agreement between the two tribes and the Federal Government, and which was approved July 1, 1902, it was agreed that certain land and deposits belonging to the Choctaws and the Chickasaws would be reserved from allotment in severalty with specific provision that said lands and mineral deposits would be sold by the Federal Government within 3 years thereafter, and the proceeds from such sale distributed upon a per capita basis among the tribal members.

It appears that, of this day in 1943, the two Indian nations are still possessed of approximately 368,000 acres of said segregated coal and asphalt lands and deposits, and that the Choctaws and Chickasaws have continuously been asserting, over this period of years and at a sizable expense to both the Federal Government and the tribes, their claim for damages because said land and mineral deposits were withheld from sale at times when they could have been sold for a consideration far above that which may now be obtained from private interests. Without passing judgment upon the factual elements or legal phases of this claim, it is a matter of general cognizance that this controversy does exist and,

in all likelihood, will continue to cause futile expenditures on the part of both the Indians and the Federal Government until it is settled or adjusted. Obviously, the contract contemplated under this legislation would settle this controversy.

It appears further that it was the intendment of the agreements between the Indians and the Federal Government to liquidate the common estate of the two tribes and wind up the affairs of the Choctaw and Chickasaw Nations in order that the members thereof might take their proper place in all capacities alongside their fellows of other races as Oklahoma citizens. The retention of Indian ownership of the aforementioned segregated coal and asphalt lands and deposits causes the maintenance of certain phases of Federal guardianship over the common property of these tribes and collaterally contributes to the continued individual wardship of many Choctaws and Chickasaws who, from all viewpoints, should long ago have been released therefrom. The contract contemplated in this legislation will go a long way toward eliminating this obstacle in the path of an appropriate readjustment of the administration of services to Indians of these two tribes.

In meeting these two propositions through the purchase of these mineral lands and deposits the Federal Government would acquire property of high value for use in the present war emergencies, as well as property which it could well afford to conserve for future generations; also, through proper capitalization of the proceeds of this sale, the Choctaws and Chickasaws could well evolve a plan of security for their membership—which ipso facto would result in great and continuing economy to the Federal Government.

In view of the above premises, I wish to join with those who are urging enactment of this legislation.

That is Governor Kerr's statement. I would like to make one other suggestion. Inasmuch as the contract which may later be negotiated or interred into might take the course of considering a cash payment, or a bond payment, or some type of deferred payment, and in order that the negotiators might have proper latitude in working out the proper kind of contract, I want to suggest that this bill (H. R. 1859), second page, line 21, that the words "a per capita payment basis" be stricken out, and the words "in pursuance with the terms and provisions of such contract" be inserted.

With those general remarks, Mr. Chairman, I want to thank you for your attention and will close unless there are some questions.

Mr. GALE. First, is there any oil on this land?

Mr. DWIGHT. Well, that matter can be more appropriately discussed by others who know more about this than I do, but there is no oil as we know now. The prospective oil value, I think, is definite and very consequential.

Mr. GALE. Has there been any accurate estimate of the amount of asphalt in these deposits?

Mr. DWIGHT. There has been of the tonnage. Just what those figures are, I am not prepared to give you at this time, but it is in the record, or has been in the record, or it can be put in the record.

Mr. GALE. Would you consider, then, that this particular area has a considerable value at the present time in view of the deposits there?

Mr. DWIGHT. An over-all value?

Mr. GALE. Yes.

Mr. DWIGHT. Yes; I would consider its cost of a high value at this time.

Mr. MURDOCK. Are there any other questions?

Mr. DWIGHT. Upon those point that you inquired about, I hope that the negotiators will take all of those points into consideration when they set a price in the contract later.

Mr. MURDOCK. The chairman would like to ask a question or two. Do I understand that, as proud as you are of your tribal organi-

zations, you do look to a day when you will terminate such organizations in governmental aspects and the membership will merge in the general citizenship of the state?

Mr. DWIGHT. I think that you have accurately stated my viewpoint. I am particularly anxious in terminating the status of the old Choctaw Nation and eliminating the situation that we live under in some degree, under a nation within a nation.

Mr. MURDOCK. The wardship relation is not so good. We would like to dispose of that, would we not?

The witness has indicated, as well as has Congressman Stewart, how many there are of the leading officials of Oklahoma now of Indian blood. That is indicative. He does not need to press the point to prove it to my mind, of course. I happen to know. But does that not have a bearing on this great question—How shall we handle the Indian affairs of our Nation in such a way that Indians in Oklahoma, and elsewhere, shall merge into the general body of our citizenry with equal rights and equal responsibilities? Is this proposal not a step in that direction?

Mr. DWIGHT. I think you are eminently correct, and this is a very practical step to eliminate some of the obstacles that we constantly run up against in doing just the thing that you mentioned there.

Mr. STEWART. As a matter of explanation, socially and politically there are no lines of division in Oklahoma.

Next, I wish to present Hon. William Durant, principal chief of the Choctaw Tribe of Indians, who has served in that capacity for the past 7 or 8 years.

Mr. MURDOCK. We will now hear from Governor Durant.

STATEMENT OF GOV. WILLIAM DURANT, CHIEF OF THE CHOCTAW
TRIBE OF INDIANS

Mr. DURANT. Mr. Chairman and gentlemen of the committee, the time that I should like to occupy in discussing this matter is so limited that I am going to begin my statement by stating that I practically endorse everything that my predecessor, Mr. Dwight, just said to you. I agree with him and his attitude about these sales. This bill is just a little different from bills that we have had pending here, and I believe that if we can get Congress to enact this bill and give us a start, authorize the Secretary of the Interior and a representative of the Choctaw Nation and of the Chickasaw Nation who own this property an opportunity, they can get down and formulate some kind of an agreement by which this thing can be settled.

Of course, the bill provides, as it should, that after we have done that we are going to submit it back to the Choctaw people and the Chickasaw people to ratify. I feel that we can prepare those things so they can be legally and rightfully and equitably settled by those people after it is submitted to them. Those things are not simple when you think of them. Some people may think that Congress ought to go to the trouble and make a law to that effect. I think that it can be done more easily and in shorter time and in a more equitable way by this committee, and then submit the law back to you, and submit it also to the Choctaw and Chickasaw Indians. I believe that this bill is one that Congress can afford to pass, and if you do it and give

us a chance to ratify the agreement between us, Congress will not only ratify it, but I believe that the Choctaws and the Chickasaws will ratify it. I have that much confidence in the Secretary of the Interior's representatives, and also the Choctaws' and the Chickasaws' representatives to get together and do it.

The Government really wants to be honest with the Indians. They want to do the right thing. It does not always work out that way because things are handled by human hands, and it is human to make mistakes. I do believe that this scheme, if properly handled and worked out sincerely, will do more toward helping the Government bring about the conditions that they want and do more for the Indians than any other thing.

I am not going into any particular detail on this bill. I am just making this general statement as to how the bill will work.

Mr. MURDOCK. The Chair would like to ask in regard to the provision for submitting the contract to the two nations just why that is necessary.

Mr. STEWART. As a result of the treaties, it has to be ratified by the two tribes. This was a treaty.

And I might add, if you will permit, they were once offered \$30,000,000 for it, and there was a lawyer's fee involved that the Choctaws, Chickasaws, and the Department would not stand for. That was back in 1912. They failed to make the sale.

Mr. DURANT. Of course, the Congress has the power to pass any kind of law that it wants. You can take that bill and just pass it any way you want to, and as far as the two tribes are concerned, they will have to swallow it and live by it. I do not think that you want to do that, and I do not think that is a satisfactory way to handle a population as large as our tribes, and the best thing to do would be to draft some proposition and then have that submitted to them for their approval and let it come back here, because Congress will have to approve it to make it a law, and you will have the last shot at it anyhow.

Mr. MURDOCK. The gentleman is correct. The Government wants to do the right thing. I was not quite sure about that treaty provision. That clears it up. We are trying to do something to satisfy those people, the Choctaws and the Chickasaws, and convince all of them that the Government has a policy of trying to do the right thing by them, and I think this is the method. It is going to take a little work and trouble, but it will be worth while.

Unless there are some questions, then, that will be all, and we thank you for your statement.

Mr. STEWART. Next, I wish to present the Honorable Floyd Maytubby, governor of the Chickasaw Indians.

STATEMENT OF GOV. FLOYD MAYTUBBY, CHIEF OF THE CHICKASAW INDIANS

Mr. MAYTUBBY. Mr. Chairman and members of the committee, I will try to make my remarks as short as possible because I have some delegates from Oklahoma that I would like to have testify on this bill.

This bill is based upon the two sections of the Atoka agreement, and the supplement agreement of the Atoka agreement, wherein the

Federal Government set aside the segregated lands for both the Chickasaw and the Choctaw Tribes. Because they were valuable they retained them, you might say, as a head right. The intention at that time was to sell these lands and to divide the money up in a per capita payment in order that the Chickasaws and Choctaws might have enough money to improve their allotments. But that idea has gone by the wayside. Forty years have elapsed, and the lands have not been disposed of, and those who needed the money to improve their allotments at that time, it would be of no value to them now. Many members that would have benefited from the distribution of that fund after the Atoka agreement have passed away. Those men that were young at that time are now past 60 years of age. I have made many trips in the Chickasaw and Choctaw Nations, and I know that many of our people are past 65 years of age and have lost their productivity. They do not come under the social-security benefits. They have been farmers and stock raisers, and at this particular time need money. The necessity is greater now than at any time previously.

Now, Mr. Dwight has asked for a change in the wording in this bill from a per capital basis to read "in pursuance with the terms and provisions of such contract", so that we can accept a per capital payment or annuities.

After the negotiations are made with the Department of the Interior as to price and the manner in which we accept the money, there are only two ways we can accept the money: One is in cash, and distribute it in per capita payments; the other is in annuities. Or when the Indians vote they will have an opportunity to decide whether or not they would like to take the income, or take it on a per capita payment.

Our people in Oklahoma have become educated, they know something about social security, and the statistics that have been compiled by the financial institutions and the insurance companies of the United States tell us that only 2 percent of the people, after they attain the age of 65, are independent. The rest of them are either dependent upon charity or they have to live with relatives, or continue working for a livelihood.

These lands are worth millions of dollars. I have discussed with many members of the Chickasaws and the Choctaws the idea that after this bill has passed and is taken to a vote of the Choctaw and Chickasaw tribes, that they might decide to take this money on an annuity basis instead of on a per capita payment.

MR. MURDOCK. Do you think that sentiment is pretty general among these people?

MR. MAYTUBBY. Our people are educated, and the idea of everybody is to try to set up some financial estate, or some income property so that they might have income after they reach retirement age.

MR. MURDOCK. If I may interpose the observation at this point, I think you are wise, and your people are wise. I find in talking among my colleagues that the feeling is—and they are not thinking of Oklahoma Indians now—their feeling is that Indians in general are not quite in a position to escape from wardship safely; therefore, any per capita or cash payments would very likely be spent. Your proposal, if that represents the sentiment of your people, I think is not only wise, but it will appeal to Congress. You will have a very wide appeal on such a basis.

Mr. MAYTUBBY. Under the terms of this bill we will have enough time to take it up with the Chickasaw and Choctaw Nations, and let them decide in what manner they would like to receive their money. I believe that the sentiment among our people is that it should be on an annuity basis, because the people who would receive the benefits of annuities would be the Chickasaws and Choctaws who would have received benefits had the Government carried out the agreement 3 years after the ratification of our treaty.

Mr. MURDOCK. If I may interpose further, I will say to the members of the committee, those of you who have been on the committee as long as I have—and that is not very long—will know that I have said around this table quite often that there are Indians and Indians. Now, when I think of the highest type of Indians in this country I think of the Indians that I know in Oklahoma. There are blanket Indians throughout the West. My State has more, broadly, than any other State. We have around 50,000 Indians in Arizona, but we need to consider the difference between those who have had their own schools and have become a part of our citizenry and of our civilization when we think of giving them additional independence and responsibility in the handling of their own affairs, and the others.

I remember when I was a school teacher in Oklahoma some of my colleagues on the faculty at Tahlequah, men about 40 who were college graduates and who knew more in a minute than I did in a month, were wards of the Government and had to get permission to do things which any American citizen ought to have the right to do. That is what I mean, gentlemen of the committee, when I, time after time, have spoken of Indians and Indians.

Mr. MAYTUBBY. At this particular time, there are only about 50 percent of the original enrolled Chickasaws and Choctaws that are now living. The reason that we would like to have our property disposed of at this time and wind up all of the Chickasaw and Choctaw affairs is that the longer we wait the further down the distribution must be, on account of heirs. The Chickasaws and the Choctaws' money is to be paid out to the living members, or their heirs, and the longer we wait the more heirs we will have and the last payment we received several years ago got down as low as a few cents on a check. That is one reason the Chickasaws and the Choctaws are particularly anxious in having this bill passed at this time. The Chickasaws do not care to continue to conserve the coal lands for the general public. The Federal Government is in a better position to conserve these lands for the general public than the Chickasaws and the Choctaws, and I know that the majority of the Chickasaws in Oklahoma would like to see this bill passed.

Mr. MURDOCK. We thank you, Governor.

Are there any questions?

Mr. STEWART. Mr. Chairman, at this point I wish to present the Hon. W. G. Stigler, national attorney for the Choctaws.

Mr. MAYTUBBY. May I interrupt right there? Somebody brought up the question of oil and gas a minute ago, and I want to say that when Mr. Short makes his testimony, that he has been one of the conservation officers of the oil and gas division of the State Corporation Commission of Oklahoma, and I think that he might be able to answer those questions.

STATEMENT OF W. G. STIGLER, ATTORNEY FOR THE CHOCTAW
NATION

Mr. STIGLER. Much thought and time have been given to the drawing of this bill. Last fall Senator Thomas, with a portion of his committee, were down in Oklahoma and held hearings on a companion bill which he introduced in the Senate.

Mr. MURDOCK. Are the bills identical?

Mr. STEWART. Yes. We had hearings yesterday in the Senate.

Mr. STIGLER. His bill is S. 314. A half dozen or more towns were visited by his committee in Oklahoma, and this bill was explained to the members of the Choctaw and Chickasaw Tribes. I was present at nearly all those meetings. They were well attended by mixed bloods and full bloods, members of the Choctaw and Chickasaw Tribes, and an expression was sought from them as to whether or not they favored this bill. The sentiment was practically unanimous in favor of this legislation. Those hearings were printed by Senator Thomas' committee, and, as Congressman Stewart said a moment ago, we had a hearing again before his committee yesterday.

Since the bill has been discussed at length by former Chief Dwight and Chief Durant, I shall not go into the merits of the bill, but I would like to urge upon the committee an amendment, the subject of which has given our people in Oklahoma much concern in some of our litigation with the Government.

In the past 10 or 12 years, in most of our litigation before the United States Court of Claims we have had considerable trouble with so-called gratuities which the Government set up as offsets. Some perhaps may have been justified, but we felt most were not in view of treaty obligations. In order to leave no room for doubt we should like to suggest an amendment to the bill, to be inserted at the end of section 2, between lines 4 and 5, on page 3, the amendment to read in substance as follows:

That no expenditure within the following classification shall be allowed the United States as offsets against the proceeds of the sale of the coal and asphalt deposits where it is shown—

(1) That such moneys were expended by the United States in the discharge of its general or specific obligations, under any treaty or agreement with any Indian nation or tribe, or incidental to the performance of its said treaty or agreement obligations.

(2) That such moneys were expended for the benefit of individual persons who were not enrolled members of the nation or tribe against whose common properties such offsets are sought to be charged.

(3) That such moneys were expended for any Indian nation or tribe, or for the individual members thereof, under any law of the United States providing for relief or assistance passed subsequent to March 4, 1943.

(4) Any expenditures made pursuant to the act of Congress of June 18, 1934 (48 Stat. 984), as amended, and the act of June 26, 1936 (49 Stat. 1967).

We believe, Mr. Chairman and gentlemen of the committee, that such an amendment would properly protect our interests and we sincerely hope the committee and Congress will vote for this or some similar amendment.

Mr. MURDOCK. That same amendment has been proposed to the Senate bill?

Mr. STIGLER. Yes.

Mr. MURDOCK. I would like to ask a question or two in regard to the proposed amendment. For instance, in No. 2, in the proposed amendment there is reference made to payments to persons. I presume that meant during the depression under relief.

Mr. STIGLER. Yes.

Mr. MURDOCK. Persons who were not enrolled members of the tribe.

Mr. STIGLER. Yes.

Mr. MURDOCK. Just one other question for my own thinking on this matter. I am intrigued by the suggestion made by an earlier witness that it is the sentiment of these people that instead of cash payments per capita, some social-security system be devised. To what extent do the Indians of Oklahoma benefit from our present social security?

Mr. STIGLER. Practically none.

Mr. MURDOCK. Making this all the more necessary?

Mr. STIGLER. Yes. May I say this, that during the depression I known personally that many full-blooded Indians went to Federal relief agencies and sought relief. They were told by that Government agency—"You go to the Indian Office. You are their ward; they will take care of you." The consequence of that was they were denied relief which should have been extended them. Naturally the Indian Office did not have sufficient money to extend proper relief and assistance to all its Indian wards and besides there should have been no discrimination in this instance.

Mr. MURDOCK. I am aware of the serious problem this situation brings to the Oklahoma Indians, and to all other Indians, including those in my own State. I do not know the solution of it, but a good solution has been offered here as far as those two tribes are concerned.

Mr. STIGLER. We feel we can work out our own salvation if given the opportunity.

Mr. STEWART. At this point I wish to present Justice Earl Welch of the supreme court.

STATEMENT OF SUPREME COURT JUSTICE EARL WELCH

Mr. WELCH. Mr. Chairman and members of the committee, I have no prepared statement and will not take a long time.

I want to emphasize the point that this bill does not accomplish a purchase and sale, but authorizes or enables the negotiations to be had, and if a contract is then written which merits and receives your approval, then the matter will be closed and the contract will not be effective until then.

I refer briefly to the proposition of the approval by the Indians. When and if the Government acquires this domain, it will be somewhat in the nature of a guardian's acquisition from its wards. Of course, when that is done the Government will want to know what the ward has fully understood and would want the people to know that were true. When this matter is consummated, we feel that the Congress will thereby render two distinct services to the people of this Nation; one, it will be the acquisition of this domain of three hundred and seventy thousand-odd acres of a valuable deposit, located near the center of our Nation which then the Government may prospect or develop immediately, or they may preserve it for emergencies, or preserve for its preservation, so to speak.

The second thing that will be accomplished will be the final, fair, and honorable settlement of the matter that has been pending between the National Government and these two tribes of Indians for at least 40 years, and when that is settled we feel those are two distinct services that will be rendered to the United States of America.

About 10 months ago the Senate committee had some hearings down in the Choctaw-Chickasaw Nation. They were held at 5 different places, and altogether about 1,000 Indians were present and voiced their suggestions and their approval of this plan in which out of the 1,000 about 3 or 4 had some objection to the sale. Since then the matter has been discussed with others who were not at those meetings. They all understand it. Of course, they have understood for many years that something ought to be done by the Government in the matter, and they think now that we are approaching a final and fair solution. I do want you to hear Mr. Short, who is in the oil-conservation department of the State corporation commission, and has some definite testimony as to the oil value which accompanies the coal and asphalt value here.

Mr. MURDOCK. Judge, we thank you for your statement. I would like to ask you a few questions. I am not a lawyer, but I would like to go into some phases of it a bit. I am very much interested in Oklahoma because I was once a resident of Oklahoma, and I lived among some of your neighbors. That is one reason why I am interested. Is what has stood in the way of a proper settlement of this matter for these 40 years the disposition on the part of anybody at Washington not to give the Indians quite a fair financial deal, you think?

Mr. WELCH. During the first period of 3 years when the sale was to have been consummated, legislation was passed deferring it.

Subsequently, when the offer was made, to which Congressman Stewart referred, of \$30,000,000, there were a lot of complications as to expenses and fees and commissions involved.

Then there came along fuel oil and the price of coal went away down, and no buyer could be found at an adequate price. Of course, in recent years, our coal has attained great value again and in this particular coal deposit shown on the map here, the records show the various kinds of coal; some of it, as perhaps you already know, is of the very highest type and most valuable for use in the war effort.

Mr. MURDOCK. If this matter were cleared up on the basis of the bill and the contract, that would pretty nearly eliminate the work of the Indian Bureau; would it not?

Mr. WELCH. Yes.

Mr. MURDOCK. Is there a disposition on the part of the Indian Bureau to hold back?

Mr. WELCH. I think none whatever in this instance. Of course, there are other functions of the Bureau and the Department that would be wholly unaffected. But this would largely dispose of it as to these two tribes.

Mr. MURDOCK. And it is your opinion, as one of the tribe, and having been a public servant for so many years among them, that these people have now reached the point, not only in sentiment but in ability, where this would be a foundation for a social-security system for them?

Mr. WELCH. Yes. That is a wonderful plan. Now, there may be some divergent views on that. There has been some opposition voiced to that plan. But, as I understand, from Governor Maytubby and from Mr. Short, when the matter has been fully discussed with an individual so that he thoroughly understands it, in most cases, they like it.

Mr. MURDOCK. Of course, we find among whites that the average white citizen, no matter how intelligent he may be, does not save for a rainy day. He does not think it necessary to be prepared, so that after he is 65 years old, he has something and does not have to depend upon charity or upon his offspring. It would probably need a good deal of explaining to the rank and file.

Mr. WELCH. That is true. The Indians, generally, are not different from the average in the matter of thrift.

Mr. MURDOCK. We thank you, judge, for your statement.

Mr. ARNOLD. Mr. Chairman, may I ask the gentleman this question? I believe someone said that you had this up last year, in the Seventy-seventh Congress?

Mr. STEWART. I do not think we had any hearings.

Mr. MURDOCK. My recollection is that it came up so late in the session there was not time to get it through.

Mr. ARNOLD. Is the State of Oklahoma to benefit any from this transaction?

Mr. STEWART. Not by one dollar.

Mr. ARNOLD. How is the Government going to pay for this land?

Mr. STEWART. The Government morally and legally agreed, when they took over this Oklahoma Territory and opened it up for white settlement, for practically nothing, that they would buy this land and pay these Indians per capita. It is an obligation, based on a sacred, solemn treaty.

Mr. ARNOLD. What would the Government do with this land?

Mr. STEWART. The Government would do as England does with its land; for instance, England owns all of the coal deposits within the Empire, and their plan has worked out in a practical way. For instance, the Indians should not be charged with holding this fuel for posterity, when that is the only property that they own, in common, at all.

Mr. ARNOLD. Would the Government have to sell bonds to finance this?

Mr. STEWART. The Indians would accept bonds in payment for it.

Mr. ARNOLD. How about the Department of the Interior? Are they in favor of this?

Mr. STEWART. Mr. Collier was before the Indian Affairs Committee yesterday, and his representative is here today and indicated that he is favorably inclined. That was on yesterday at the hearings of the Indian Affairs Committee of the Senate.

Mr. ARNOLD. He would not advocate that the State of Oklahoma buy this and own it itself?

Mr. STEWART. No. Oklahoma is not a party signatory to the treaty.

Mr. ARNOLD. And you say that this is a treaty obligation of the Government?

Mr. STEWART. Yes; it is a treaty obligation of the Federal Government. You understand, the Indians disposed of their lands which they

held in common to the United States and opened up the homesteads of Oklahoma Territory in 1889 and billions of dollars have been paid in the way of taxes since then, so that this would represent a very small sum of money when you consider the bargain that the Government had driven with the Indians in this matter.

Mr. ARNOLD. And you are recommending that the committee report this favorably?

Mr. STEWART. Yes, sir; to authorize the Secretary of the Interior to enter into negotiations with them—to keep faith with the obligation of a solemn treaty.

Mr. ARNOLD. That is all, Mr. Chairman.

Mr. MURDOCK. May I clarify one thing further? This is a great natural resource?

Mr. STEWART. Yes.

Mr. MURDOCK. The coal and other products that it may contain would have untold value in the future?

Mr. ARNOLD. Someone said something about asphalt.

Mr. STEWART. Yes. We have the finest asphalt mines in the world—veins of asphalt. That is formed by petroleum or oil that is exposed, which coagulates when the air is exposed to it. It makes very fine asphalt—the kind that is used on some of the finest driveways here in Washington and throughout the whole country.

Mr. MURDOCK. Furthermore, with regard to the benefits resulting to Oklahoma, there would be the general benefits that result to any Commonwealth where the citizens have some security, such as this would bring to the Indians.

Mr. STEWART. That is true. If I may be permitted at this point, Mr. Chairman, I wish to present the Honorable W. W. Short, president of the Choctaw-Chickasaw Association, with a membership of between eight and ten thousand.

Mr. MURDOCK. We shall be very glad to hear Mr. Short at this time.

STATEMENT OF W. W. SHORT, STATE PRESIDENT, CHOCTAW AND CHICKASAW CONFEDERATION

Mr. SHORT. Mr. Chairman and gentlemen, my name is W. W. Short. I am State president of the Choctaw and Chickasaw Confederation. I would like to present a prepared statement in order to save time.

Mr. MURDOCK. Without objection, it will be made a part of the record at this point.

(The statement submitted is as follows:)

STATEMENT OF W. W. SHORT, STATE PRESIDENT, CHOCTAW AND CHICKASAW CONFEDERATION

My name is W. W. Short. I am an enrolled member by blood of the Chickasaw Indians. I am the State president of the Choctaw and Chickasaw Confederation, and Mrs. Myrtle Creason, a Choctaw, is secretary.

This confederation, when it was first started, was called the Choctaw and Chickasaw Coal and Asphalt Land League. Under this title 15 counties comprising part of the Choctaw and Chickasaw Nation of Oklahoma, were organized. On the 19th day of October 1942, 13 county organizations sent delegates to Oklahoma City to organize this movement into a permanent organization, and this organization was given the name of "Choctaw-Chickasaw Confederation," the preamble of the constitution and bylaws reading as follows: "We, the members

of the Choctaw and Chickasaw Tribes of Indians in convention assembled at Oklahoma City, Okla., on the 19th day of October 1942, in order to secure to ourselves and our descendants the rights, privileges, and benefits to which we are entitled under the laws of the United States and the State of Oklahoma; to assume full responsibilities as American citizens; to cooperate with all persons, organizations, governmental, and other agencies seeking a fair, just, and equitable adjustment of our tribal affairs; and to otherwise promote our common welfare—do establish this organization and adopt the following constitution and bylaws."

This confederation is an organization of Choctaws and Chickasaws, organized as a State confederation, with units now operating in 15 counties of the old Choctaw and Chickasaw Nation. This confederation was organized for the sole purpose of cooperating with our elected Senators and Representatives in Washington, and with our tribal officials in winding up the tribal affairs of the Choctaw and Chickasaw Indians.

We have approximately 9,800 Choctaws and Chickasaws enrolled as members in these 15 county units. I make the above make statement to show you the interest the Choctaw and Chickasaw Indians are taking in their affairs, and I think I can truthfully speak for 99½ percent of all the Choctaw and Chickasaw Indians, both mixed bloods and full bloods, in urging you to recommend passage of the Thomas Senate bill S. 314.

I wish to make a few remarks regarding this bill. The last treaty, or agreement, between the United States Government and the Choctaw and Chickasaws was approved by an act of Congress of July 1, 1902, and ratified by the Choctaw and Chickasaw Tribes of Indians, and became effective on September 25, 1902.

The Federal Government agreed by this supplemental treaty (quoting from sec. 59 of the treaty): "All lands segregated and reserved under the last preceding section, excepting those embraced within the limits of a town site, established as hereinbefore provided, shall, within 3 years from the final ratification of this agreement, and before the dissolution of the tribal governments be sold at public auction for cash * * * and the proceeds arising from said sale of coal and asphalt lands and coal and asphalt deposits shall be deposited in the Treasury of the United States to the credit of said tribes and paid out per capita to the members of said tribes (freedmen excepted)." And section 61 of this treaty provides: "No lease of any coal or asphalt lands shall be made after the final ratification of this agreement, the provisions of the Atoka agreement to the contrary notwithstanding."

Disregarding this provision and in violation thereof, the Federal Government, has from time to time, since the ratification of the treaty, leased these lands as it saw fit without the consent of the tribes, and 1928 was the last year in which a per capita payment was made.

The Department of the Interior decided about a year after the ratification of the treaty of 1902 that it did not want to sell the coal lands and asked Congress for some kind of legislation to permit an extended leasing program in violation of the Atoka agreement and supplemental agreement. Such act was passed, I believe, in the summer of 1904, at least in that year. And, through one maneuver or another, this program has continued over 40 years.

In 1902 the Choctaw and Chickasaws owned approximately 450,000 acres of coal lands. Since that time almost 100,000 acres have been sold—around 5,000 acres were sold last year over the protest of these Indians.

From the best information we can obtain, the revenues from leasing and royalties on these lands belonging to the Choctaws and Chickasaws amount to approximately \$35,000 to \$40,000 annually. On the face of this it would seem to some people as though it would be profitable for the Choctaw and Chickasaws to maintain these deposits longer, but from a practical and business standpoint it would not, and I want to give you the figures presented to the Senate Indian Committee of the Seventy-seventh Congress, second session, February 2 and 3, and March 3, 1942, bill S. 1542:

"Senator CHAVEZ. Has the Department information as to how the revenue was spent in the last 10 years?

"Mr. ZIMMERMAN. Yes, sir. I do not happen to have it in my hands at the moment.

"Senator CHAVEZ. Do we have it in the record yet?

"Mr. ZIMMERMAN. I do not know, but I think that it could be supplied easily.

"Senator CHAVEZ. I think that it would be advisable to have the records show the receipts and the disposition of the receipts."

(This information is as follows:)

Receipts from the coal and asphalt lands for the Choctaw Nation for the years 1932 to 1941 amount to-----	\$256, 702. 17
Tribal appropriations including the salaries and expenses of the tribal officials for the Choctaw Nation for said years amount to---	388, 257. 18
The Choctaws have a deficit for said years in the amount of----	131, 555. 01
Receipts from the coal and asphalt lands for the Chickasaw Nation for the years from 1932 to 1941 amount to-----	77, 637. 45
Tribal appropriations including the salaries and expenses of the tribal officials for the Chickasaw Nation for said years amount to--	156, 306. 02
The Chickasaws have a deficit for said years in the amount of-----	78, 638. 57

The Federal Government has forced the Choctaw and Chickasaw Indians for more than 40 years to maintain a tribal form of government; the Chickasaws having a governor and a part-time attorney, the Choctaws a chief and attorney and the two tribes together a coal trustee. Besides the salaries of these officers, I understand they are allowed \$2,500 each year for expenses. I have made a determined effort to find out as nearly as possible the number of full bloods in each tribe. I have talked to full bloods and mixed bloods in every county of the old Chickasaw Nation and from this investigation it is the judgment of the people I have talked to that there are about 10 percent of the Chickasaws who are full bloods or restricted Indians. The other 90 percent are mixed bloods or unrestricted Indians. I made this same investigation in every county of the old Choctaw Nation and find that approximately 20 to 25 percent are full bloods or restricted Indians.

At the time of enrollment there were approximately 20,000 Choctaws and 6,000 Chickasaws. These Indians are scattered all over the globe, and I call to mind a few of them to show you the character and kind of these Indian citizens. I would like to mention Earl Welch, a Chickasaw, who is chief justice of the Supreme Court of the State of Oklahoma; Reford Bond, a Chickasaw, the chairman of the Corporation Commission of the State of Oklahoma; Dick MacLish, a Chickasaw, who owns and operates the Oklahoma Live Stock Commission Co., at Oklahoma City; Tom Hunter, a full-blood Choctaw, I believe, who has been county judge of Choctaw County for so long the people take him to be part of the fixtures of the county; Gilbert Daney, a Choctaw, who is county judge of Atoka County; C. C. Chastain, a Choctaw, who has been county judge of Grady County for several terms; Dr. T. P. Howell, a Choctaw, president of the First National Bank of Davis; Jess Maytubby, a Chickasaw, cashier of the First National Bank of Caddo; Elmer Phillips, a Chickasaw, manager of the Peoples Packing Co. of Oklahoma City; Tess Mobley, a Chickasaw, of Ardmore, who has sung before the crowned heads of Europe, known professionally as Lushanya; Walker T. Pounds, a Chickasaw, chief clerk of the oil and gas division of the Corporation Commission of the State of Oklahoma. Mrs. Charles Fisher, a Chickasaw, who entertained the King and Queen of England at a reception given in the White House by the President's wife, known professionally as Princess Te-Ata. Several Choctaws and Chickasaws are in the House of Representatives and the State Senate of Oklahoma. Others are lawyers, doctors, men engaged in the oil business, farmers, and cattlemen. It does not make sense, to keep such people as wards of the Government. Some of these Indians are destitute, but there are also a lot of destitute white people in Oklahoma.

We want our affairs wound up and a final settlement made. We have seen our estate grow smaller year after year; we have seen our money wasted on unnecessary bureau officials and tribal officials until we, the Choctaw and Chickasaw people, have decided it is time to get together and do something about winding up our affairs. I think the Federal Government should buy these coal and asphalt lands, add them to the Federal mineral reserves for the future safety of our Nation. Science and chemistry are finding out more about the possibilities of the byproducts of coal every day, and they are now producing over 64 parts that go into the modern airplane, byproducts from coal, besides numerous other things in our everyday life. You may say coal today is "black magic."

From a financial point of view, the Federal Government would be making a good investment—not only for the safety of our Nation, but in a dollar-and-cents point of view. It is debated among the best authorities of the Nation that our oil and gas reserves are limited. When and if these reserves are exhausted then these vast coal deposits would, indeed, be an asset to any nation.

The Federal Government has forced the two tribes to preserve these deposits. The enrolled members are rapidly passing away and today there is no way on earth to tell how many of the enrolled members are living. It would let every member, including the full-bloods, know exactly what they had as their share. They would realize then they would have to depend upon their own efforts and initiative for a livelihood, and it would put new life into them.

We have been told by politicians and public officials ever since statehood that we were a wealthy people, that we had a great estate that was worth anywhere from \$15,000 to \$30,000 a head. There was a large majority of the people who believed this was truth, with the result they held back, did not put forth much effort toward making anything more than a bare living, and today they are beginning to realize the truth; that their estate is not so large, that it has been getting smaller all the time, that the Government has not kept its treaty agreements, and it is much harder to meet the everyday needs of life today than it was a few years ago.

The Choctaw and Chickasaw Indians had their own government and were prosperous under their tribal form of government but when they made the treaty with the Federal Government in 1902 they had every reason to believe the Government would carry out the provisions of the agreement. They thought that in accepting said treaty they would thereby adjust and stabilize their affairs and that they would receive their money from these coal and asphalt lands, and other tribal property; that they would have this money to improve their allotments and to meet the new order under statehood. But the confusion and contentions that have developed, and now exist, because of the various phases of the guardianship of the Federal Government over the Choctaw and Chickasaw Indians and their property, causes continued and enormous expenditures on the part of both the Federal Government and the Choctaw and Chickasaw Tribes of Indians. The unnecessary expense could be eliminated and a saving effected by the Federal Government, and at the same time it would be paying a moral debt and complying with their treaty obligations to these Indians by winding up the tribal affairs.

Personally, I think the Indian Bureaus should be completely readjusted in Oklahoma. I think the full-blood children would be better off going to school with the white children. I say this from actual experience for all the education I received was in the Indian Academy, at Rock Academy, and Harley Institute in the old Chickasaw Nation, and I was several years adjusting myself to the ways of the white man's society. I was backward and timid and this will apply to the Indian children of today being educated in schools where there are only Indian children.

I have only one son. He is a pilot and flying heavy bombers somewhere in the southwest Pacific. The first flying fortress landed on Henderson Field on the Guadalcanal Island was piloted by a Choctaw and Chickasaw Indian, name, Ben White, Jr., of Oklahoma City. There are hundreds of Choctaws and Chickasaws in service fighting in this war. What will these men think of their Government keeping them wards of the Government and the Government guardian of their property. When they come back they want to be free men and handle their property as any other citizen.

I speak for the 9,800 Choctaw and Chickasaw Indians enrolled as members of the Choctaw-Chickasaw Confederation in asking this committee to recommend to the Senate of the United States the passage of this bill for I believe it to be broad enough that we may be able to wind up all the tribal affairs of the Choctaw and Chickasaw Indians and the Government will then, after more than 40 years, have carried out their treaty agreements and let us be on equal footing with other citizens.

Mr. SHORT. I would also like to present for the record a letter, which is characteristic of hundreds and hundreds of letters that we have received. This is a letter, I believe from a full-blood Choctaw woman that lives in Stigler, Okla., a lady that I have never met, but a sister to three former Choctaw chiefs and a sister to Mr. McCurtain. It is a letter that reads like hundreds of others that we have received.

Mr. MURDOCK. Without objection, it will be received and made a part of the record at this point.

STIGLER, OKLA., October 14, 1942.

Hon. W. W. SHORT,
Oklahoma City, Okla.

DEAR MR. SHORT: I have been authorized to write you by the members of the Mai-hai-ya Indian Club of Haskell County which is a member of the General Federation of Women's Clubs and is named for my beloved grandmother, Mai-hai-ya McCurtain, wife of a Choctaw chief and mother of three Choctaw chiefs—the McCurtain brothers—Jack, Edmund, and Green.

We have followed with the greatest admiration your valiant fight on behalf of our noble cause.

I believe the backers of this movement for the sale of our coal lands are taking advantage of us in claiming that it is our patriotic duty to sell this land for the defense of our country. We are loyal Americans—Americans with an inborn sense of patriotism born of 450 years of fighting for the defense of this country. We have fought for our rights since the coming of the first foreigners to our shores and have risked and given lives as recently as the battles of Corregidor and the Solomons.

We think it a poor argument and do not consider it being patriotic to practically give to a private concern our lands which we can see that they will not in all probability use in the immediate defense of our country but will save for a later time when they can make enormous profits by supplying the post-war demand for this material to rehabilitate the now warring countries. These private concerns will then profit by our loss and reap the fruits of our lands.

It is a poor brand of patriotism and we Indians would rightly be ashamed to admit to our sons who are fighting for America and risking their lives for this country to return to find their heritage gone—practically given away to private concerns.

While they are fighting over there, let us at home fight for their rightful heritage here.

May God give you the strength and wisdom to continue your courageous fight on our behalf.

Your friend,

ALICE MCCURTAIN SCOTT.

Mr. SHORT. Mr. Chairman, with your permission I would like to make a few remarks. This organization is composed of Choctaw and Chickasaw members of two tribes and at the present time we have approximately 9,800 members.

The purpose of the organization was to get the members of the two tribes together in order that we may cooperate with our elected officials in Congress, both in the House and in the Senate.

We are asking the Government to carry out the solemn treaty agreements that were made with these two tribes of Indians some forty-odd years ago.

As probably you understand, the situation in our country is this: There was a time of enrollment, and when the rolls were closed, some 20,000 Choctaws and approximately 6,000 Chickasaw Indians were on these rolls.

I appreciated hearing the chairman make this statement, that "there were Indians and Indians." We are the Indians. We are civilized. We had our own tribal form of government before Statehood.

I, as a member of the Chickasaw Tribe, received all of my education in the Indian schools, the Indian academies. We had our government, our State senate and our house of representatives. The Choctaw people had their chief and their council.

There was a difference, as you know, between the governments of the two tribes.

I have personally made an investigation; I have talked to the full-blood Indians and the mixed-blood Indians in every county of the whole Chickasaw Nation to determine, as nearly as possible, the number of full-bloods left in our Chickasaw Tribe.

The result of this investigation showed that there are about 10 percent of the members of the tribe that are full-bloods or restricted Indians.

I made this same kind of investigation in every county of the Choctaw Nation. I talked to full-bloods and to the mixed bloods. Some of them are county judges. There are others holding other county offices. The best information I could get is that there are approximately 20 to 25 percent of the Choctaws that are full-bloods or restricted Indians.

When this organization started the full-bloods said to the mixed bloods—that is, myself and several other members of this delegation—that they wanted us to start the organization to try to see if we could not wind up our affairs. We are only asking that the Government keep its solemn treaty and agreement with us.

The members of this organization, comprising some 9,800, feel this way about it, and I think I can truthfully say for the other Indians that do not belong, that 99½ percent of them feel the same way.

First they wanted the Government to pay us in cash, in per capita payments; second, they would invest this money and take bonds of the United States Government in lieu of the cash.

If that cannot be done, we are willing, under this bill, to sit down with our tribal officials across the table from representatives of the Federal Government and thresh our troubles out face to face and try to arrive at some final settlement.

As has been brought out in the testimony that has been presented, we own approximately 368,000 acres of coal and asphalt lands. Of this amount of land, there are approximately 3,000 acres of asphalt land. The nearest oil production to this coal land is about 10 miles away. Of this acreage, according to the best information that I have, there are about 27,000 acres that carry the oil and gas rights with it. The rest of it does not.

I have been a deputy oil and gas conservation commissioner of the State of Oklahoma under the corporation commission of that State for the last 10 years. I am acquainted with the oil possibilities in this area, and I say that it definitely has a prospective oil and gas value. But there is no production nearer than 10 miles away.

Under the circumstances, since statehood, being wards of the Federal Government has held the Indians back instead of letting them progress; letting them assert their own initiative and progress with the white people, as civilization progresses.

We are asking the Government at this time to release us as wards of the Government in accordance with the solemn treaty agreements that were made around 40 years ago.

That you might understand the type of citizenship incorporated in these two tribes, I would like to call to mind just two or three people who are members of the tribes. There is Judge Welch, chief justice of the supreme court, a Choctaw; there is Mr. Bond, a Choctaw, who is chairman of the Corporation Commission of the State of Oklahoma. We have Choctaws and Chickasaws in the House and in the State Senate of Oklahoma; doctors, lawyers, and bankers. It does not make sense to have that type of people wards of the Government.

I thank you for the privilege of addressing you.

Mr. MURDOCK. We want to thank you, Mr. Short.

May I say that at this moment there is an automatic roll call in the House. This committee does not have permission of the House to sit during the sessions of the House. So that I think it would be well for us to adjourn at this time until tomorrow at 10 o'clock.

The chairman of this committee is out of the city. A good many members, as you have observed, are away, because we are expecting to wind up the business of the House in a matter of hours. That is the reason we have not been able to give you a full attendance at this hearing. But I want to assure the judge that we appreciate his statement, and I think I can speak for the chairman in saying that we will give this bill full consideration.

As a member of the committee I want to say that I shall give it especially sympathetic consideration.

With that statement the committee will stand adjourned until 10 o'clock tomorrow morning.

(Whereupon a recess was taken until Thursday, July 8, 1943, at 10 a. m.)

TO PURCHASE COAL AND ASPHALT LANDS FROM THE CHOCTAW AND CHICKASAW INDIANS

THURSDAY, JULY 8, 1943

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INDIAN AFFAIRS,
Washington, D. C.

The committee met at 10 a. m., Hon. John R. Murdock presiding.

Mr. MURDOCK. The committee will please come to order. We will proceed with the hearing on H. R. 1859, and I will ask Mr. Stewart to introduce his next witness.

Mr. STEWART. Mr. Chairman, I wish at this time to have the committee hear Mr. Lee Welch, an attorney, from Antlers, Pushmataha County.

STATEMENT OF LEE WELCH, ANTLERS, OKLA.

Mr. WELCH. Mr. Chairman and members of the committee, I am a member of the Chickasaw Tribe. I have lived in the heart of the Choctaw country for 22 years, where I practiced law.

There are many of these people in Pushmataha County where I live, and I think if ever the needs of those people could be served it would be at this time.

I am sorry that the full membership of this committee could not have heard the interesting talks and testimony we had yesterday in support of this bill.

The settlement of the affairs of our two tribes has been a long time coming.

I am glad that the chairman was interested in the suggestion of the Governor yesterday that the Indians of our two tribes want, with the help of this committee and the Congress, to provide if possible for this needed help, especially for our aged Indians.

I have heard a great many comments since yesterday about the interest that the members of the committee are taking in this bill, and we hope that with your help at this time that it will go through.

I thank you.

Mr. MURDOCK. The Chair wishes to assure the witness that the members of the committee are deeply interested in this matter. The Chair has shown an unusual interest because of the fact that he has lived for some little time in Oklahoma. The present chairman of the Committee on Indian Affairs is out of the city right now, and it is unfortunate that we have to have a hearing at a time when we are just on the ragged edge of taking a recess.

Mr. HOLMES. May I ask a question at this point? What is the attitude of the Commissioner of Indian Affairs on this matter?

Mr. WELCH. My understanding, from the other members of the delegation and officials, is that he is for it.

Mr. HOLMES. After this transfer of money, how is it to be handled?

Mr. WELCH. That is a matter that has not been fully determined, as I understand it. The suggestion was made yesterday—I do not think the committeeman was present at the time—that the two tribes would be receptive to voting for some economic help in this matter on an annuity basis for aged members of the tribe.

Mr. HOLMES. It is to be held in trust, is it?

Mr. WELCH. As I understand it, that program would entail such procedure; yes, sir.

Mr. MAYTUBBY. The question was asked, as I understood it, how this money would be set up. That, I believe, will be taken care of in negotiations with the Department of the Interior, after this bill is passed.

This bill provides that a settlement can be made with the Chickasaws and the Choctaws at the time this bill is passed, and the understanding is that the Chickasaws and the Choctaws themselves can vote and select a plan in which the money is to be paid, whether in cash, on a per capita basis, or whether in bonds, or whether they elect to take it in annuities.

If they should take it in annuities, I imagine it will be set up somewhat similar to the social-security benefits now being distributed by the Federal Government. The machinery is already set up; if it should be paid through social security administration, the mechanics would be copied from either the social-security procedure or that of the old-age benefits, now established in the State of Oklahoma, if set up separately.

Mr. HOLMES. May I ask Mr. Stewart a question? Congressman, do you not think that is an important item in relation to this bill?

Mr. STEWART. My thought was to pay them in per capita payments.

In 1902 the Government made a treaty with these tribes agreeing to dispose of this in 3 years. Subsequent to that, as late as 1912, there was an offer of \$30,000,000 from private individuals for this deposit of coal, but in view of what the tribes thought was an excessive attorney's fee the trade fell through.

The Indians are merely asking that the Government keep faith with them after all of these many years of delay. The property has been under the control of the Interior Department and they have been leasing this coal, and we struck gas in great quantities, and quite a lot of that has been taken out over a number of years. But there is enough coal there to supply the entire Nation for a hundred years.

Mr. HOLMES. May I say that my grandfather was O. C. Haskell, who founded the Haskell Institute, so I am very sympathetic with your program. However, I was wondering about the desirability of per capita payments versus annuities. The per capita payments to Indians have been somewhat disastrous to Indians, have they not?

Mr. STEWART. Not in every case. The Indian runs along about like the white man when it comes to disbursing those funds.

At this time, Mr. Chairman, I wish to present to the committee Mrs. Myrtle Creason, of Oklahoma City. Mrs. Creason is secretary of the Choctaw-Chickasaw Confederation, and that organization has 9,800 members.

Mr. MURDOCK. The committee will be glad to hear Mrs. Creason at this time.

STATEMENT OF MRS. MYRTLE CREASON, OKLAHOMA CITY, OKLA.,
STATE SECRETARY, CHOCTAW-CHICKASAW CONFEDERATION

Mrs. CREASON. Mr. Chairman and members of the committee, I consider it a privilege to appear before you to give my reasons, and not mine alone but the reasons of the Choctaw Tribe of Indians, for wishing to see this bill passed, and I shall be as brief as possible.

Through my office as State secretary of the Choctaw-Chickasaw Confederation, numbering several thousands persons, I have contacted, over a period of 18 months, both personally and through the mail, hundreds of members of my tribe on this vital question. All these, without exception, say the same thing—the thing they have gone on record as advocating:

We want to sell our coal lands; we want to get out of the coal business once and for all; we want the Government to fulfill treaty agreements. We enrolled Indians are growing old and have waited 40 years for the fulfillment of these promises. With sad eyes, we have watched our one remaining inheritance gradually vanish without benefit to any of us; we are asking only for what is justly due us.

In addition to the testimonies in this report on the hearings held in the State of Oklahoma by Senator Thomas, this committee has received many letters from individual members asking for the passage of this bill. I believe you are familiar with the wishes of all tribal members on this question.

By an act of Congress of June 21, 1924, all Indians born within the territorial limits of the United States were declared American citizens, though why they were ever considered anything else is an unsolved mystery, since they are definitely the first Americans.

Are they the ones who have broken treaty agreements? When in his native state, honesty was a byword with the red man. Promises were kept at all cost. There is no instance of Indians breaking treaty agreements. History records many examples of Indians who have been outstanding Americans. The participation of American Indians in World War I, in camp and actual warfare, furnishes a ratio to population unsurpassed and unequaled by any other race or nation, and they were not subject to conscription and were not in any way required to participate. And they are as active in the present conflict and are gaining as many honors as their paleface brothers.

My people are not asking a gratuity. As loyal American citizens they are asking fulfillment of solemn treaties, solemn so far as the Indian is concerned.

You are familiar with the provisions of the 1902 treaty regarding the promise to sell this coal and asphalt land within 3 years from the final ratification of said treaty; to pay the proceeds out in per capita payments to the members. Instead of the Government doing this, within a year after the ratification a movement was started, by the Department of the Interior, asking legislation that would take the lands off the market and provide for an extended leasing program. The Indians protested saying: "We want to go through with this agreement as we have said." However, the act was passed in 1904. The power to sell was given into the hands of the President of the United States, in the Atoka agreement, but that was soon changed

and this authority given to the Secretary of the Interior. Section 61 of the supplemental agreement reads:

No lease of any coal or asphalt lands shall be made after the final ratification of this agreement, the provisions of the Atoka agreement to the contrary notwithstanding.

I need not tell you that in spite of this, the lands have been consistently leased. No longer ago than February and March 1942 a leasing bill was before this committee which was so strongly opposed that the Secretary of the Interior said in a letter to J. G. Puterbaugh, of McAlester, Okla., as of March 16, 1942:

In view of the many uncertainties attending a lease, including the possibility of delay in obtaining legislation, I see no objection to an immediate sale,"

and sell it, he did, in spite of protests by letters and telegrams from tribal members, because he had that power. Two telegrams to the War Production Board and one to the President, offered, as a patriotic gesture, to give the coal under said acreage to the Government for the duration, rather than sell at the price contemplated.

I understand that this committee is not passing upon the value of these lands, but I do want you to realize that we are not asking the Government to purchase a worthless piece of ground. This same Mr. Puterbaugh in a speech before the Oklahoma Minerals Conference, December 10, 1942, in Oklahoma City, had this to say:

There is deposited beneath the blue-capped hills and green valleys of eastern Oklahoma, adjacent to the beautiful cities of Henryetta and McAlester and Tulsa, approximately 79,000,000 tons of the highest grade bituminous gas coal and semibituminous smokeless coal found in America.

And speaking of the amount of coal this particular acreage is expected to produce, he said:

* * * and if the coke ovens and blast furnaces now under active construction at Dangerfield and Houston, Tex., are carried through to completion—as is expected—beginning approximately May 1, 1943, these mines now being developed and equipped will be expected to produce for them (the Sheffield Steel Corporation) approximately a million tons of coal per year.

On page 83 of the hearings on the bill, S. 1542, as of February and March 1942, is recorded this passage, between the chairman of the Senate committee and Mr. Puterbaugh:

The CHAIRMAN. From the standpoint of business administration of the affairs of these Indians do you not think it would be a more advantageous thing to sell this land than it would be to lease it?

Mr. PUTERBAUGH. Well, frankly, Mr. Chairman, I have thought for a long time that the Federal Government was not treating the Indians properly in compelling the Indians to be the conservation agency for these coal deposits. In other words, there will come a time, maybe 50 years hence, when that country down there will not be so abundantly supplied with natural gas and cheap fuel oil, and it will need coal, and even the land that has no market value now will have value then, and I think it would be the proper thing for the Federal Government to relieve the Indians of the ownership of these lands and to put them into the Federal coal reserve and not be in haste to sell them or lease them, but let them be available to the public as the public needs the coal, to be mined in a legitimate, careful manner, and let the Indians out of it. * * * There is a great deal of discontent down in that country and a feeling that the Government has not kept faith with them in administering their estate and liquidating it out.

This question has been coming before Congress for so many years that I am sure it will be a relief when it is settled and out of the way. I am sure it will make the Indians happy.

The following pledge was given the American Indians by the Democratic Party in convention assembled, in Chicago in 1940:

We favor and pledge the enactment of legislation creating an Indian Claims Commission for the special purpose of entertaining and investigating claims presented by Indian groups, bands, and tribes in order that our Indian citizens may have their claims against the Government considered, adjusted, and finally settled at the earliest possible date.

And from the Republican platform adopted at its convention in Philadelphia the same year.

We pledge an immediate and final settlement of all Indian claims between the Government and the Indian citizenship of the Nation.

It is hoped that the two major parties meant what they said when they made these pledges to the Indian people and that they were not merely campaign oratory to secure the Indian vote.

Each of you has received a copy of Concurrent Resolution No. 16, passed by the Oklahoma Legislature in March 1943, memorializing Congress to pass this bill, H. R. 1859, giving valid reasons for so doing.

In conclusion, this is my earnest entreaty as a representative of my tribe, that the just and honorable thing be done by this committee and that you show your good faith by reporting this bill out favorably.

I thank you.

Mr. STEWART. You are a Chickasaw?

Mrs. CREASON. No; I am a Choctaw.

Mr. STEWART. Mr. Chairman, I would appreciate it now if the committee would recognize a representative of the Department of the Interior who is here.

Mr. MURDOCK. The committee will be pleased to have a statement from the representative of the Department at this time.

Will you give the reporter your full name and the position you occupy?

STATEMENT OF JOSEPH C. MC CASKILL, ASSISTANT TO THE COMMISSIONER, OFFICE OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. McCASKILL. Mr. Chairman, my name is Joseph C. McCaskill. I am assistant to the Commissioner in the Office of Indian Affairs in the Department of the Interior.

Mr. Chairman, I am sorry there is not before you the report by the Department on this particular bill. The Department has reported in previous years on similar bills, and the report on the present one is about to come to you, and you should have it for the record within the next day or two. If I may, I would suggest that it be included in the record.

Mr. MURDOCK. Of course, the committee will not be in position to take any action at the present time or do anything other than to make a record, so the report will be available for the record.

Mr. STEWART. May I suggest that the clerk of the committee be authorized to include the report in the printed record.

Mr. MURDOCK. Without objection, it will be included in the record.
(There was no objection.)

(The matter referred to is as follows:)

THE SECRETARY OF THE INTERIOR,

Washington, September 9, 1942.

Hon. WILL ROGERS,

Chairman, Committee on Indian Affairs,

House of Representatives, Washington, D. C.

MY DEAR MR. ROGERS: Reference is made to your request for a report on H. R. 6776, a bill to authorize the purchase of certain interests in lands and mineral deposits by the United States from the Choctaw and Chickasaw Nations of Indians.

I have no objection to the acquisition by the United States of the segregated mineral deposits of the Choctaw and Chickasaw Nations, but I believe certain amendments to H. R. 6776 are needed.

There is authority under existing law to permit the sale of these coal and asphalt deposits and to lease developed tracts and undeveloped tracts adjoining and needed in connection with mining on developed tracts; but adverse market conditions resulting from the discovery of large quantities of natural gas and oil in Oklahoma and nearby States have rendered it practically impossible in recent years to dispose of the deposits to the advantage of the Indians. It may be many years before the tribes will benefit to any great extent from the sale or leasing of these deposits. In the meantime, the tribes, and the Government as well, must bear the expense of administering and protecting the property and supervising the few sales and leases that may be consummated. For these reasons, it might be advisable for the Government to buy these deposits and hold them in reserve until a better market develops, but provision should be made for their future disposal under conditions similar to those provided in the General Leasing Act of February 25, 1920 (41 Stat. 437; 30 U. S. C., 181, et seq.), and it also should be provided that all proceeds derived therefrom shall be deposited in the general fund of the Treasury of the United States. A memorandum giving further information concerning the segregated coal and asphalt deposits is attached.

Section 1 of the bill authorizes the negotiation of a contract by the Secretary of the Interior for the purchase of the coal and asphalt deposits and the execution of the contract by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation. It then provides that the contract shall be submitted to Congress for approval. No time limit is fixed for approval by Congress and therefore an executed contract might remain pending before Congress an unlimited time without receiving the necessary approval to make it effective. In order to avoid this, it is suggested that the last two sentences of section 1 beginning at line 2, page 2, be stricken and that the following be submitted:

"The contract shall be executed on behalf of the Indians by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation and shall be submitted to Congress. The contract shall become effective upon the expiration of 60 calendar days after the date on which it is transmitted to Congress, but only if during such 60-day period there has not been passed by the two Houses of Congress a concurrent resolution stating in substance that Congress does not favor the contract. If Congress adjourns sine die before the expiration of the 60-day period, a new 60-day period shall begin on the opening day of the next succeeding regular or special session. A similar rule shall be applicable in the case of subsequent adjournments sine die before the expiration of 60 days."

It is recommended that section 2 of the bill be amended to read as follows:

"SEC. 2. Upon such contract becoming effective—

"(a) The amount of the purchase price fixed in the contract shall be placed to the credit of the Choctaw and Chickasaw Nations of Indians on the books of the Treasury of the United States and shall be expended only as may be authorized by Congress.

(b) The Secretary shall cause a proper conveyance to be executed by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation conveying to the United States all right, title, and interest of said Indians in such lands and mineral deposits as may be covered by the contract and thereupon all right, title, and interest of the Choctaw and Chickasaw Nations shall vest in the United States. The payment provided for herein shall be deemed a full satisfaction of all claims the Choctaw and Chickasaw Nations may have against the United States on account of any withholding from sale, failure to

sell, or delay in selling any of the coal and asphalt deposits of said nations."

There should be added to section 3 the following authorization:

"There is also authorized to be appropriated the sum of \$20,000 to be expended under the direction of the Secretary of the Interior, to defray the expenses of negotiating the contract authorized by section 1 hereof, including the making of such appraisal or appraisals as may be deemed necessary."

There should be added to the bill a section to authorize the disposal of any coal and asphalt deposits which may be purchased by the United States. A draft of a section to accomplish this, designated section 4, is attached.

The purpose of the changes suggested is obvious and it is believed they would make the bill more practicable and facilitate its administration.

The Bureau of the Budget has advised me "that the enactment of the proposed legislation, either in its present form or if amended as suggested in your proposed report, would not be in accord with the program of the President."

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

MEMORANDUM OF INFORMATION RELATING TO A BILL TO AUTHORIZE THE PURCHASE
BY THE UNITED STATES OF THE SEGREGATED COAL AND ASPHALT DEPOSITS OF THE
CHOCTAW AND CHICKASAW TRIBES

Originally there were 445,052 acres within the segregated coal and asphalt area. According to the report of the superintendent of the Five Civilized Tribes Agency for the fiscal year ended June 30, 1938, there are about 379,637.08 acres of the coal and asphalt minerals unsold, valued at \$10,041,029.67.

A suit was filed in the Court of Claims (J 620) by the Choctaw and Chickasaw Nations against the United States claiming more than \$8,000,000 as damages arising out of the delay or failure on the part of the Government to dispose promptly of these coal and asphalt deposits in accordance with earlier agreements with these tribes. The suit has been dismissed for lack of prosecution.

Sections 56 to 63, inclusive, of the act of July 1, 1902, ratifying the supplemental agreement with the Choctaw and Chickasaw Indians (32 Stat. 641), provided that such lands of the Choctaw and Chickasaw Nations as were chiefly valuable for coal and asphalt should be segregated from allotment and sold. Section 59 of the supplemental agreement provided that the lands, leased and unleased, should be sold at public auction for cash within 3 years from the date of final ratification of the agreement and before the dissolution of the tribal government.

Before the expiration of the 3-year period or the offering of the lands for sale as provided by said section 59, a provision was passed, contained in the appropriation act of April 21, 1904 (33 Stat. 189-209), that all leased lands should be withheld from sale until the further direction of Congress. The act further authorized the sale of the unleased lands and deposits "upon sealed proposals" under regulations to be prescribed by the Secretary of the Interior. The unleased lands and coal and asphalt deposits were duly advertised and offered under sealed bids pursuant to the provisions of the last-mentioned act. The bids were opened at various dates from October 3, 1904, to August 7, 1908. All bids were rejected by the Department as being too low.

On December 7, 1905, the Department recommended a draft of legislation to provide for the final disposition of the affairs of the Five Civilized Tribes, section 13 of which provided that all coal and asphalt lands and deposits in the Choctaw and Chickasaw Nations, whether leased or unleased, segregated under, or the sale of which had been authorized by any act of Congress, should be sold at public auction under the direction of the Secretary of the Interior, in bulk or in such parcels as he might determine to be for the best interests of the tribes and under regulations prescribed by him.

This proposed legislation was modified and section 13 of the act of April 26, 1906, was passed reading as follows:

"That all coal and asphalt lands whether leased or unleased, shall be reserved from sale under this act until the existing leases for coal and asphalt lands shall have expired or until such time as may be otherwise provided by law."

By the act of February 19, 1912 (37 Stat. 67), Congress provided for the sale of the surface of the lands within the segregated coal and asphalt area. There was no authority of law for offering the coal and asphalt deposits after the passage of section 13 of the act of April 26, 1906, *supra*, until the passage of the act of

February 8, 1918 (40 Stat. 433). Under the later act three public auction sales have been extensively advertised and held; and a fourth such sale was had subsequently to the passage of the act of February 22, 1921 (41 Stat. 1107), which act provided for the reappraisal and reoffering of the deposits for sale. Under these acts 114 tracts, aggregating 88,592.17 acres of the coal and asphalt deposits, were sold; the aggregate price being approximately \$2,455,389.70. Subsequently the sale of a number of tracts involving approximately 27,000 acres were canceled.

Section 3 of the act of June 19, 1930 (46 Stat. 788), provides as follows:

"That where any tract of said coal and asphalt deposits has been heretofore or may be offered hereafter for sale at two or more public auctions after due advertisement and no sale thereof was made, the Secretary of the Interior may, in his discretion and under such rules and regulations and on such terms and conditions as he may prescribe, sell such tract at either public auction or by private sale at not less than the appraised value: *Provided, however,* That the Secretary of the Interior may, in cases where the tracts remain unsold and the facts are found to justify, cause reappraisements to be made of such tracts and reoffer and sell such tracts either at public auction or private sale at not less than the reappraised value."

All of the unsold tracts have been advertised and offered for sale a number of times. Since the passage of the act of June 19, 1930, *supra*, a few tracts have been sold in particular instances where it appeared to be for the best interests of the Indians to make the sales.

SEC. 4. The land and mineral deposits when acquired hereunder shall become part of the public domain subject to the applicable public land mining and mineral leasing laws. The coal deposits acquired hereunder may be leased in accordance with the provisions relating to coal of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended. The asphalt deposits acquired hereunder may be leased by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations prescribe, and in areas not exceeding 640 acres each. Leases for such asphalt deposits shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 25 cents per ton of 2,000 pounds of marketable production, and upon the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and \$1 per acre per annum thereafter during the continuance of the lease, such rental for any lease year to be credited against royalties accruing for that year. Leases for such asphalt deposits shall be for a period of 20 years, with preferential right in the lessee to renew the same for successive periods of 10 years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of such periods. All asphalt leases issued hereunder shall be subject to such further terms and conditions, not inconsistent herewith, as may be incorporated in each lease or prescribed by general regulations adopted by the Secretary of the Interior prior to the issuance of the lease, including covenants relative to mining methods, waste, period of preliminary development, initial investment, and minimum production. The Secretary of the Interior is authorized to modify or amend as to area any asphalt lease issued hereunder upon application of the lessee if he finds such modification or amendment to be to the best interests of the United States and the lessee. The general provisions of sections 1, 27, 29, to 34, inclusive, 37 and 38 of the Mineral Leasing Act of February 25, 1920 (4 Stat. 437), as amended, shall apply to asphalt leases issued under the provisions of this act, sections 1, 34, and 37 thereof being amended to include deposits of asphalt acquired hereunder, and section 27 thereof being amended to provide that no person, association, or corporation shall take or hold more than 2,560 acres under asphalt lease at any one time. The entire net income from coal and asphalt leases issued under this act shall be deposited in the general fund of the Treasury of the United States.

Mr. McCaskill. Mr. Chairman, there are one or two items in the bill to which I should like to call attention.

First, in regard to the distribution of the funds, about which the Congressman asked a question a moment ago.

The bill does provide for the per capita distribution of those funds. An amendment which was proposed by Mr. Dwight yester-

day provided that the funds should be distributed according to the provisions of the contract. The contract is subject, under the provisions throughout the bill, to ratification by the members of the tribes, and it is subject to ratification by the Congress.

The report which is coming forward from the Department proposes that the distribution of funds, or the expenditure of those funds, shall be in accordance with the action taken by the Congress.

I see no essential difference between the point of view as represented by the Department and as represented by Mr. Dwight.

Mr. MURDOCK. You have reference to the proposed amendment on page 2, lines 21 and 22?

Mr. McCASKILL. That is correct. I see no essential difference between the Department's point of view and the point of view represented by Mr. Dwight and some of the other witnesses, because, in effect the approval of the contract by Congress will represent the distribution of funds. The amendment asked for by Mr. Dwight is acceptable.

There is no provision in the bill for any time limit in which Congress should act in approving or disapproving the proposed contract. Of course, the bill is only an enabling act which authorizes the Secretary of the Interior to enter into negotiations.

It is the Department's proposal that some language be incorporated which would put a time limit on the action of Congress, so it will not drag along indefinitely, and so that the people who want to sell to the Government will know where they stand.

The language we are proposing is, in effect, that the contract shall become effective within 60 days, unless contrary action is taken by the Government.

I have the wording which might be followed in that connection, and I suggest that that might be incorporated in the record at this point.

Mr. MURDOCK. At what point in the bill do you propose to put this suggested amendment?

Mr. HOLMES. That would be in section 1, line 13, on page 2; would it not?

Mr. McCASKILL. Yes; that instead of the last sentence of section 1 there be inserted in lieu thereof the following provision:

The contract shall become effective upon the expiration of 60 calendar days after the date on which it is transmitted to Congress, but only if during such 60-day period there has not been passed by the two Houses of Congress a concurrent resolution stating in substance that Congress does not favor the contract. If Congress adjourns sine die before the expiration of the 60-day period, a new 60-day period shall begin on the opening day of the next succeeding regular or special session. A similar rule shall be applicable in the case of subsequent adjournments sine die before the expiration of 60 days.

Mr. MURDOCK. That is following line 13 on page 2.

Mr. McCASKILL. Yes.

Mr. STEWART. I do not think we have any objection to that.

Mr. McCASKILL. The present bill reads, in the last sentence in section 1—

such contract shall not be binding upon any one of the parties thereto until it shall have been ratified by the Congress.

We are simply proposing legislation which would not permit them to hang fire over a long period of time.

Mr. HOLMES. That is just an enabling amendment?

Mr. McCASKILL. That is right.

There is one other item, in the second section, to which I would like to call attention.

The Department proposes the insertion of language which would provide that the payment provided for herein shall be deemed in full satisfaction of all claims that the Choctaw and Chickasaw Nations may have against the United States on account of any withholding from sale or failure to sell, or delay in selling any of the coal or asphalt deposits of said nations.

Mr. HOLMES. That is to provide for payment to the Indians as soon as the contract is negotiated.

Mr. McCASKILL. Also, suit was filed in the Court of Claims by the Chickasaw and Choctaw Nations against the United States claiming more than \$8,000,000 damages arising out of the delay on the part of the Government in disposing of the deposits in accordance with the agreement, and while this suit has been dismissed for lack of prosecution, it is the Department's desire to foreclose the matter, if that can be done, by certain language as this.

Mr. MURDOCK. In other words, this is to be in full settlement of any financial obligations.

Mr. McCASKILL. Yes; and of any contract by the Government.

Now, may I go back to section 1.

There has been some questions raised about the proposal that elections are to be held. There has been some questioning of that proviso.

The Department is, in principle, in accordance with any proposal to refer the matter to the Indians for approval. I should like to call attention to some difficulties to be encountered. The determination of who is to vote, the determination of whether it is to be voted on the basis of interest which the individuals may have, or whether it is to be each person to have a single vote; the question as to how we shall reach absentee people, with returns from all over the world—those are some of the questions raised here, and it is the desire of the Department that perhaps some language might be inserted in the bill to take care of those things.

Although we have no specific language to propose, we would rather hope that the Indians can work that out to suit themselves, as to how they want the vote to be taken.

We simply raise those questions and ask, incidentally, if there is to be an election held, and if so, to express the feeling of the members of our office that the \$20,000 authorized in section 3 for defraying expenses in negotiating a contract and holding elections should be boosted to \$30,000, because presumably there are certain appraisals and other things to be entered into and the \$20,000 originally proposed did not contemplate the expenses of an election, but only the matter of expenses in negotiations.

Section 4 provides that—

the land and mineral deposits when acquired hereunder shall become a part of the public domain subject to the applicable public land mining and mineral leasing laws.

It is my understanding that under the applicable public land mining and mineral leasing laws the coal deposits are protected, that the

Government can cash in on those, but so far as the asphalt is concerned the Government stands a chance to lose those immediately.

I have brought with me this morning Mr. Bradshaw from the Solicitor's Office, and he is prepared to discuss that particular aspect of the matter if you will permit him to do so, and the Department has an amendment which it is proposing looking toward the disposition of these lands as provided for under the bill.

I would like to ask you to hear Mr. Bradshaw on section 4.

Mr. MURDOCK. I should like to do that, but first I would like to ask a question or two. In regard to any expression from the Indians themselves in regard to any contract, would you please explain just how far the Wheeler-Howard act extends to Indians in Oklahoma.

Mr. McCASKILL. The Indians of Oklahoma were exempted from the original act, but a special Oklahoma Welfare Act was passed in 1936 which authorizes certain types of organizations, including individuals in organized groups, and including tribes and credit unions. I am quite sure that neither the Choctaw Nation as such, nor the Chickasaw Nation as such is organized under the Welfare Act.

Mr. MURDOCK. Their organization antedates the enactment of the Wheeler-Howard Act. The federation which was mentioned is of rather ancient origin.

Mr. McCASKILL. I should like to suggest that it probably antedates the organization of the United States.

Mr. MURDOCK. That is probably true.

Mr. McCASKILL. At the present time there is no representative organization of any sort or any group of officials elected by the nations as representative officers.

Again, I should like to ask Mr. Durant to check with me on that.

Mr. DURANT. As to the last act you mentioned, Mr. Collier submitted a proposition to the Choctaw Nation that Mr. Dwight spoke of yesterday, and he called a convention with the understanding with Mr. Collier that in that convention they would provide for some kind of a representation of the Choctaws that would express themselves on these subjects, and as far as the Department was concerned they would either approve it or reject it.

So that convention provided for the selection of a representative of each of the 10 southeast counties in the State of Oklahoma which comprised the old Choctaw Nation, and it also provided for one at large. It was provided in the convention that the chief be authorized to select 1 Choctaw for each 1 of the 10 counties and 1 at large, and the Commissioner approved that resolution.

So, we have been working on this idea that as to anything we wanted to do, any change we wanted in our affairs, that the chief would call a meeting of this advisory council, and they would pass a resolution and suggest to the Department just what they wanted done.

Later on, after that was organized the Commissioner, Mr. Collier, had Mr. Dwight call a convention of those delegates to decide what they wanted to do, and pass resolutions making some kind of recommendations, as to that property.

Some of this property was their schools. They would take that from our income, and we ran our schools ourselves. But the income from coal got to be so small that we could not run them with that and we had to do something else.

So, Mr. Dwight called a convention and we passed resolutions touching practically everything we had.

One thing we suggested was how we should handle our schools. We asked them to take those schools and run them at the expense of the United States Government. They did that and we added to our boys' school, and we also added to the girls' school, and we had a course teaching domestic science.

I want to make this statement. We have a girls' school down there in Mr. Stewart's district established by the Choctaws themselves. It was established by the Choctaw Council at that time, and that is 107 years old, and in that school they had Choctaws and they were practically every one of them full-blood Choctaws. They provided a curriculum of study. They provided that the boys in the boys' school should be taught farming and mechanical arts. That was done 36 years before the Morrill Act was passed by the United States Congress. Full-blooded Choctaws did that, and the girls' schools taught housewifery, and that means the same as our modern domestic science that we brag so much about.

The Commissioner of Indian Affairs suggested that we suggest to the Government how we wanted those things handled. Among them were the schools we had there, and we also have a hospital down there. We got the Government to build a tubercular hospital. We also got them to build a general hospital.

By the way, the Choctaws and the Chickasaws got together, a committee of them, and then you built one of the finest Indian hospitals west of the Mississippi River. It cost over a million dollars and is one of the best operated institutions in the whole country.

I would like to say this, that in that hospital we have a maternity division. I might say that we have had quite a number of births down there and there has been an increase in our population and if it continues to increase too fast, we may not be able to take care of them. That is one reason why we want to convert the proceeds from the sale of these deposits into a social-security plan, so that if we do increase the population there too fast, we will be able to take care of them in that way.

Mr. MURDOCK. I want to thank the chief for that statement.

Mr. DURANT. But that is the only authority we have. That council that we have is advisory. It is appointed by the chief, and when I was put in his place, I reappointed the same people, so the council is practically the same as it was previously; they recommend to the Secretary of the Interior what is to be done.

Mr. MURDOCK. I thank you again, chief. I did not want to break in on the statement of the representative of the Department.

Mr. McCASKILL. I have finished, Mr. Chairman.

Mr. MURDOCK. Except this; my question was directed to this point. If the Government carries out its solemn obligation, as the witnesses have asked us to do, in the enactment of this bill, any contract entered into will be with the two Nations as they were from ancient times, you might say, and not with any new organization that has been brought into being under the Wheeler-Howard Act.

Mr. STEWART. That is right.

Mr. MURDOCK. That is the point I wanted to bring out. Not to clutter up the record, but to carry out the idea a little further that

Congressman Stewart suggested at the opening of the session today, that Oklahoma is represented in the Hall of Fame in Washington by Indians, let me say that I have been a school teacher all my life and many of my former students, when they come to visit Washington from the far West, come to see me. I lead them through Statuary Hall and the question almost invariably is asked, "Why isn't Will Rogers in Statuary Hall?" "Well," I say to them, "you saw Will Rogers outside. He wanted to be placed where he could keep an eye on Congress." [Laughter.]

Of course, that is interesting and pleasing and the truth. But when I get inside Statuary Hall with my former students of American history, I say to them. "The law now provides that each State may present two pieces of statuary to the Government, but we could not put on this floor 96 such heavy pieces as you see around here in marble and bronze. Therefore the present law is that a State may be represented by only one piece of statuary in the Hall of Fame. If you look, right here, Oklahoma is represented by Chief Sequoya, a Cherokee who gave his people a written language.

And I always point out to my former students—and this is a lesson in American history I insist on giving them even at this late date—that Chief Sequoya gave his people a written language, so that these Indians had books, newspapers, and a literature before they came to the West.

I am glad to hear from the chief that the same applies to some other Indians as well as to the Cherokees. But I point out to my visitors, of course, as a matter of information, that before Will Rogers became famous, Oklahoma was represented in the Hall of Fame by Chief Sequoya, and if we ever rebuild this Capitol so that the floor will hold 96 pieces or more, it may be that we will have more than 1 Indian in Statuary Hall.

Mr. STEWART. May I suggest at that point that Sequoya's cabin is enshrined for future generations in Congressman Jack Nichols' district.

Mr. MURDOCK. I am glad to know that.

We will now hear from the representative of the Land Office, Mr. Bradshaw. We shall be glad to hear you, Mr. Bradshaw, particularly with reference to section 4 of the bill.

STATEMENT OF C. R. BRADSHAW, CHIEF, MINERAL DIVISION, GENERAL LAND OFFICE

Mr. BRADSHAW. Section 4 of the bill as presently written provides that the land and mineral deposits, when acquired, shall become a part of the public domain, subject to the applicable public land, mining, and leasing laws.

So far as we know definitely, the only minerals are coal and asphalt. I understand that there is a strong probability that the lands may contain oil. If so, the oil and the coal will be subject to lease under the mineral leasing laws. At present the asphalt would be subject to location under the general mining laws.

Mr. HOLMES. What do you mean by that?

Mr. BRADSHAW. Under the present provision of the bill the asphalt would be subject to location under the general mining laws.

Mr. GALE. Asphalt does not come in the same category?

Mr. BRADSHAW. It does not come under the same category as oil and coal. Oil and coal are subject to lease and the Government derives a royalty from the oil and coal and a rental from the land during the term of the lease.

Under the general mining laws any person who makes a discovery of minerals may locate certain acreage and record his location, stake his claim, and he is then entitled to mine and remove the minerals without any payment whatever to the United States.

Mr. HOLMES. Is there not a certain period of time after he stakes his claim before he can start action?

Mr. BRADSHAW. No; he can begin immediately.

Mr. HOLMES. That was a proposition that was before the Public Lands Committee, that 180-day period, Mr. Chairman; was it not? But I do not think anything developed from that.

Mr. MURDOCK. Nothing has been done on that; no.

Mr. BRADSHAW. I think that was a bill providing for recording locations in the Land Office within a certain time. But under the mining laws the location must be made and then work can be begun immediately.

The original purpose of the mining laws, as construed by the courts, has been that the location is a reward for discovering a mineral that is valuable, that is needed in the industry of the United States.

Asphalt in these lands, as I understand, has already been appraised; that is, it has been located and is definitely known to exist, and its location is known.

If this bill should pass as it is worded at present, the moment the bill became law, and the contract had been executed, the asphalt would be subject to location by the first citizen who desired to make the location, and unquestionably it would be located immediately. And notwithstanding that the United States had paid a considerable price for the asphalt, the locators would be able to go in and take it out without paying anything, so the United States would realize nothing for the asphalt.

So, for that reason, we suggest that a substitute section 4 be inserted in the bill providing for the leasing of the asphalt deposits.

Mr. STEWART. May I inquire whether you have your suggested amendment prepared?

Mr. BRADSHAW. Yes, sir; I have it here. I might say that this same matter was before the last Congress, in House bill 6776 and in the report of the Department on that bill, the same substitute that is now suggested was recommended. The substitute would provide for the leasing of the asphalt deposits on substantially the same general terms that certain other minerals are now leased, for example, phosphate and potash and other fertilizer minerals, as well as coal.

There is another reason why the asphalt would be disposed of under lease rather than under mining location, and that is that section 37 of the leasing act provides that the minerals shall be subject to lease, and the lands containing them shall be subject to disposal only under that law.

If the asphalt is located and oil is later discovered in the land, the owner of the location would own the oil if it was not known to exist at the time the location was made. In other words, he acquires the

right to take any minerals that may be contained in the land once he makes a valid location. If the oil is known to exist, then the asphalt could not be located, because under the leasing law the land could not be acquired under the mining laws; and the asphalt then would be locked up and not be subject to disposal until such time as the oil should be exhausted. And that might be a considerable time.

So, for those reasons, which we consider fully adequate, we suggest that section 4—our proposed section 4—be substituted and provision be made for leasing the asphalt also.

There is a very slight possibility that there may be some other minerals in some parts of the land, but that is so slight that I would see no objection to the mining laws applying to any other minerals—gold, silver, or any metaliferous minerals that might possibly be found in the land. The possibility that they will be found is remote and, if they are found, they will probably not be found in quantity, and if they are found on land that does not contain leasable minerals, I would see no particular objection to location.

Mr. MURDOCK. I think at this point we should have a copy of the suggested section 4 for the benefit of the record. It will be inserted at this point.

(The matter referred to is as follows:)

SEC. 4. The land and mineral deposits when acquired hereunder shall become part of the public domain subject to the applicable public land mining and mineral leasing laws. The coal deposits acquired hereunder may be leased in accordance with the provisions relating to coal of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended. The asphalt deposits acquired hereunder may be leased by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations prescribe, and in areas not exceeding 640 acres each. Leases for such asphalt deposits shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 25 cents per ton of 2,000 pounds of marketable production, and upon the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and \$1 per acre per annum thereafter during the continuance of the lease, such rental for any lease year to be credited against royalties accruing for that year. Leases for such asphalt deposits shall be for a period of 20 years, with preferential right in the lessee to renew the same for successive periods of 10 years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of such periods. All asphalt leases issued hereunder shall be subject to such further terms and conditions, not inconsistent herewith, as may be incorporated in each lease or prescribed by general regulations adopted by the Secretary of the Interior prior to the issuance of the lease, including covenants relative to mining methods, waste, period of preliminary development, initial investment, and minimum production. The Secretary of the Interior is authorized to modify or amend as to area any asphalt lease issued hereunder upon application of the lessee if he finds such modification or amendment to be to the best interests of the United States and of the lessee. The general provisions of sections 1, 27, 29 to 34, inclusive, 37 and 38 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended, shall apply to asphalt leases issued under the provisions of this act, sections 1, 34, and 37 thereof being amended to include deposits of asphalt acquired hereunder, and section 27 thereof being amended to provide that no person, association, or corporation shall take or hold more than 2,560 acres under asphalt lease at any one time. The entire net income from coal and asphalt leases issued under this act shall be deposited in the general fund of the Treasury of the United States.

Mr. MURDOCK. Were there any questions you wished to ask Mr. Bradshaw, Mr. Stewart?

Mr. STEWART. His amendment is just to protect the Government's interest and I think the amendment is all right. We have no objection.

Mr. BRADSHAW. It would not affect the remainder of the bill, of course.

Mr. MURDOCK. That is the purpose of the amendment.

The Chair might ask a question at this point, somewhat in this connection, also for the benefit of the record. I come from a mining State. My people are jealous of mining rights and privileges under the old but existing law of location, and so forth. Of course, I can see that foreclosure against location of claims is really necessary in this particular case where asphalt is known to exist, and oil is probable. Without prejudging the matter, I have a feeling that this amendment is necessary for the protection of the Government's rights here. However, I might say that farther west, where mineral is yet to be discovered, you will find that the mining people are opposed to the extension of the leasing principle. They prefer to operate under the earlier location law.

Mr. BRADSHAW. I might say, Mr. Chairman, that the general mining laws have never applied generally to the State of Oklahoma. They were extended at one time to the portion of Oklahoma included in the Kiowa, Comanche, and Apache Reservation. Later that operation was restricted to the Wichita National Forest and still later, the major portion of that forest was placed in the bird reserve, where mining was prohibited, and now all of the forest is in the bird reserve, so that the mining laws do not apply at all to Oklahoma, but the leasing laws do have application.

Mr. GALE. May I ask one general question? Very evidently this land has considerable value, or potential value. What is to prevent the Indians who own that land now—these two nations—from getting the value of that immediately? It is apparently the purpose of this bill to open up this land so that these deposits may be used. What would prevent the Indians from getting the benefit of it now? Could not they lease it out now?

Mr. BRADSHAW. I will have to speak generally on that question, but I think my general knowledge of the situation may possibly qualify me to answer that. There is a considerable amount of coal there and there is a considerable amount of asphalt. But the question of realizing on the coal and asphalt now depends, of course, on the market. In other words, there are other deposits of coal in Oklahoma and other deposits of asphalt. They are byproducts from the oil wells. The result is that this being a small, isolated area, and not as conveniently located to market as other deposits, it is not at the present time available and in all probability it will require a period of possibly several hundred years to dispose of the coal, if the United States obtains title; because it will be gradually leased and disposed of as it becomes marketable.

Mr. GALE. Do the Indians have the authority to lease out oil land if it should be discovered there?

Mr. BRADSHAW. As to this particular land, I do not know what the law provides; or what the treaty provides at present. But generally speaking the Indian Office, as Mr. McCaskill could tell you, is authorized to issue leases for all types of minerals that occur on Indian reservations, and they do so for the benefit of the Indians.

Mr. McCASKILL. Mr. Chairman, in connection with the question raised as to how much they have realized from these lands, may I say that beginning about 1902 the royalties collected from the leasing of coal lands amounted to over \$200,000 a year, for a good many years, running up as high as \$255,000. That kept up, with some decline around 1921; and then a sharp decline in 1922 and 1923; and then a still further sharp decline in 1924, until it dropped, in 1933, to \$17,000. It has been climbing up gradually since that time and in 1941 reached \$35,000.

Mr. GALE. Is this from this particular area?

Mr. McCASKILL. That is correct, from this particular area, and represents royalties collected from leases. The answer, of course, is that oil and gas and other fuels have come in as substitutes for coal, and there has been no demand for it in recent years, to speak of.

If I am not mistaken, the Rock Island was one of the big users of this coal at one time, and then it shifted to oil. There has been, up until quite recently, little demand.

Within the last year, the Defense Plant Corporation has purchased about 5,000 acres of these lands at a price of about \$170,000, including \$2,500 worth of surface rights.

Mr. GALE. Purchased them from the two tribes?

Mr. McCASKILL. That is correct, sir. They are being used to stoke the ovens of the Sheffield Steel Plant in Texas. How much more the Defense Plant Corporation will need, I do not know. They have asked for an option on some additional acreage, but unless the demands are much greater than at the present time, there will be no immediate opportunity to sell any large portion of the coal lands.

Mr. MURDOCK. May I ask Mr. McCaskill this question? In general, this bill is an attempt to get away from the vicissitudes of business in regard to this mineral land, we might say, on the part of these two Indian nations, as well as their asking the Government to fulfill a solemn treaty obligation. It is an effort to get away from the ups and downs of the market and get this obligation which we owe the Indians put on a sound, long-time basis under some sort of a contract on which the Indians can rely, instead of this piecemeal leasing as the Government now does for them.

Mr. McCASKILL. I might say that I have located at least seven specific statutes relating to these lands passed by Congress, apparently with some effort to settle the situation.

First, Congress by the approval of the agreement which was mentioned awhile ago by the various witnesses agreed to sell the lands, dispose of the lands, for the nations.

Mr. MURDOCK. That was in 1902.

Mr. McCASKILL. That was in 1902. Hardly was the ink dry before Congress changed its mind, shall I say, and enacted in 1904 a bill that all leased lands should be withheld from sale until further direction of the Congress and that the unleased land should be sold under sealed proposals.

Under this act the unleased lands were duly advertised, but all the bids were rejected by the Department as being too low.

In 1906 Congress again enacted a measure that all land, both leased and unleased, should be withheld from sale until the leases expired.

In 1912 the surface of the land was authorized for sale.

In 1918 they authorized the appraisalment and sale of the unleased land at public auction.

In 1921 they provided for a reappraisalment and for auction sale.

In 1930 they provided for either public or private sales, provided they had been advertised a certain number of times, at not less than the appraised value, and where the tracts remained unsold to make another reappraisalment to sell either publicly or privately.

In recent years there has been a more definite effort on the part of Congress to sell these lands, but the absence of buyers brings the situation to a point where it is at the present time.

Mr. MURDOCK. From this it appears these lands have had ups and downs from Congress.

Mr. McCASKILL. For a number of years the Indians have been urging that the Government take over these lands and reimburse them for them in order to carry out the spirit of the original agreement, whereby the Government obligated itself to dispose of these lands for the tribes.

Mr. GALE. Do I understand that these tribes can sell this land or any portion of them to any private individual?

Mr. McCASKILL. There is authority for the sale of the lands.

Mr. GALE. At a public sale?

Mr. McCASKILL. It may be sold at a private sale now, provided that they have been advertised on at least two occasions, I believe. Is that correct, Chief?

Mr. DURANT. Yes.

Mr. McCASKILL. It may be sold now privately if it has been advertised twice.

Mr. DURANT. We have an application for the sale of part of this land over in the east part of our State, part or five tracts. It was submitted to me not long ago and I approved it and I think Governor Maytubby approved it, and probably the Department will go ahead and sell that.

Mr. McCASKILL. That is a private sale?

Mr. DURANT. That is a private sale. It will be sold to the highest bidder, but the man has to guarantee the minimum bid. We approved that.

Mr. McCASKILL. I might say, under these various acts that I have mentioned, 114 tracts, totaling 88,592 acres have been sold; that is outside of the Defense Plant Corporation purchase.

Mr. DURANT. We have that one proposition pending now, but it has not been closed.

Mr. GALE. Then I understand, if this bill passes and this contract is approved, an individual, by filing a claim, could get possession of this land?

Mr. McCASKILL. That is only the asphalt land. About 3,000 acres is asphalt land and the balance of the acreage is all coal land.

Mr. MURDOCK. That fact makes necessary the proposed substitute section 4.

Mr. McCASKILL. The Government can realize from the coal under the present bill, but the asphalt would be lost to the Government under the present language of the bill as it appears before the committee today.

Mr. GALE. Therefore it would be very much to the advantage of certain individuals to get that land under those circumstances?

Mr. McCASKILL. To buy it?

Mr. GALE. No; to get possession of this asphalt land merely by filing a claim rather than by purchase.

Mr. McCASKILL. I take it Mr. Bradshaw's testimony awhile ago indicated that there would be a good rush for that the minute this bill were passed. But it is known that asphalt exists there and all you have to do is to make a location and it is yours.

Mr. GALE. That is what I wanted to clear up.

Mr. McCASKILL. Our proposed amendment here would protect the Government in the disposal of the asphalt.

Mr. MURDOCK. Mr. Burdick, do you have any questions?

Mr. BURDICK. I am interested in the protection of the Government, but I am even more interested in the protection of the Indians. Before I would vote for this bill you would have to convince me that it was not a scheme to loot the Indian lands. If the proposition is fair to the Indians it is all right with me.

Mr. MURDOCK. I think the gentleman's record in this committee will bear out his contention in that respect.

Mr. SHORT. Mr. Chairman, may I make a remark for the benefit of the member of the committee who was not here yesterday? My name is W. W. Short and I am speaking for some 9,800 Choctaws and Chickasaws.

I would like to answer Mr. McCaskill on the proposition that the Government would want to take everything we had, including the claims and lawsuits that the Choctaws and Chickasaws have against the Government.

Mr. McCASKILL. Only with reference to these lands.

Mr. SHORT. What we want to do, gentlemen of the committee, is to settle our affairs once and for all, with the Government. We are tired of the Government being our guardian. We want to sit down across the table and trade everything we have got to you gentlemen for everything we can get out of you. That is the Indians' attitude.

For the benefit of you gentlemen on the committee, there are 27,000 acres of this coal land that carry all the mineral rights, including oil and gas.

The position that we Indians are in, as Mr. McCaskill said, is this. The revenue last year was about \$35,000. The Government compels us to maintain a chief and an attorney, and the Chickasaws a Governor and a part-time attorney, and that \$35,000 is eaten up in salaries and expenses. We have not gotten a thing out of it.

We Choctaws and Chickasaws want to wind up our affairs and make a final settlement. We want to sell you everything we have got, including our claims, our lawsuits, our coal lands and oil lands, and the 3,000 acres of asphalt land.

Thank you, Mr. Chairman.

Mr. MURDOCK. Thank you, Mr. Short. I will say further for the benefit of Congressman Burdick, who, by the way, is one of the most alert members on this committee looking after the Indian rights, whether they be in North Dakota or elsewhere, that it was suggested yesterday by one of the witnesses that although these ancient organizations are to be proud of—and Oklahoma Indians are proud of them—after all these Indians of Oklahoma of the Civilized Tribes' stand far out in advance of most of the other Indians of North America and would like to dissolve their organization as a governmental unit.

That, I think, is what Mr. Short refers to, and that these members will now take their place in the citizenry of the country on terms of equality with all others, and they feel that they are competent, being educated individuals, many of them holding public office in the State of Oklahoma.

Mr. SHORT. We are all Choctaws and Chickasaws. We are a fair representation of our people. You can look us over and see whether we are capable of taking care of ourselves or not. We are tired of the departmental control by the Government.

Mr. BURDICK. There is just one other question that I would like to ask the Bureau of Mines. What kind of coal is that?

Mr. BRADSHAW. It is bituminous coal.

Mr. BURDICK. How is it mined?

Mr. BRADSHAW. I am not familiar with that area, but I think most of it would be mined by strip methods.

Mr. STIGLER. Part of it is shaft mining.

Mr. DURANT. The coal that we have got on the east side is what you call smokeless coal. Arkansas has it and we have it. The city of St. Louis passed an ordinance that they would not allow the people there to use coal from Illinois, and so we mine that coal down there. Before that the only market we had was to get that coal to Minnesota or some place up there in Wisconsin. We have increased our income on account of selling a lot of that smokeless coal that we mined down there. The Frisco Railroad gave us a rate on it from Fort Smith to St. Louis, and also the Kansas City Southern, and that is the market that we have for it, and I believe that eventually some of the largest cities will be using coal for fuel and will eventually adopt the use of smokeless coal.

Mr. BURDICK. Did you ever have that coal analyzed to see what it contained in the way of oil and explosives?

Mr. DURANT. The United States Government has spent quite a bit of money doing that. That was done in one of the appraisals. We had an appraisal in 1918, and we had another appraisal made by the Cameron Co., and they made a pretty thorough analysis of that coal. The Department's records show a pretty good analysis for that coal. All of our coal, however, is mined by shaft. We have had some strip mining, but most of it is done by shaft. The coal has to be taken out by shaft.

Mr. BURDICK. I think this statement might be all right in the record. In the fight between Germany and Russia, Germany is sustained about 83 percent in its oil and rubber from coal in the Donets Basin, and you will notice that the fight that is going on there is to clear the Russians out of that basin, because if the Germans lose that coal, they would lose the war. So I was just wondering what kind of coal this was and whether it had been analyzed or not.

Mr. DURANT. It has been analyzed by the United States Government, and they know pretty well what it is.

Mr. MURDOCK. Are there any other questions to be asked of Mr. Bradshaw or Mr. McCaskill?

Mr. STEWART. You made a statement that you had a recommendation coming in from the Commissioner of Indian Affairs. You did not indicate to this committee what that would be.

Mr. MURDOCK. Is it adverse or favorable?

Mr. McCASKILL. The report, Mr. Chairman, of the Department in previous years has been favorable to this legislation, and I see no reason why the report that is coming up now should be any different. It has not been signed by the Secretary, and I cannot say what he will do with it, but the report as prepared is somewhat along the lines of reports in previous years, and I am sure that is the way it will come to the committee.

Mr. STEWART. I might say for the benefit of the committee that Mr. Collier was present at the Senate hearings and he made a statement that he was favorable to the passage of the Senate bill.

Mr. McCASKILL. That is correct.

Mr. STEWART. We have Judge McCurtain, and he is a former district judge, and his people have been holding the office of principal chief for many generations, and I hope that he gives us a prologue of how many of the McCurtains were principal chiefs by election. We used to have really tribal government, and I wish he would tell us how many there were, Judge, before we get to the legal matters.

STATEMENT OF D. C. McCURTAIN

Mr. McCURTAIN. Mr. Chairman and gentlemen of the committee, my name is D. C. McCurtain. My residence is Poteau, Okla. My local address here is 3206 Wisconsin Avenue.

I would like to say this, that we want to assure the Members of Congress and members of this committee and the Congress that in this bill we are not asking for anything gratis, and I was glad to hear the chairman yesterday make the observation that there are Indians and Indians. I was glad to know that he had spent some time sojourning in my State and I wish that others of the committee could have had that experience because he knows at first hand at at close range the situation as it relates to this bill.

Now, since Congressman Stewart has referred to the fact that I come from a family of chiefs, my father was the youngest one of the brothers who occupied the position of principal chief of the Choctaw Nation. There were three brothers who had that distinction—Jack F. McCurtain, Edmund McCurtain, and my father, Green McCurtain, and I want to say this in honor of my parents, that their mother was a full-blooded Indian. Her full-blood Indian name was Ma-Hai-Ya. My father always told me she was a very strict disciplinarian. She did not spare the rod, and in those days about the only government that they had was in the home, and I think she did a fairly respectable job of raising five boys, three of whom were made chief executives of their tribe.

Now, Mr. Chairman and gentlemen of the committee, this bill has been discussed, its provisions and the extent of the bill, and some suggested amendments, and also there has been presented in this record the opinions of, I might say, all of the Choctaws and Chickasaws, both here in this report and in hearings conducted by Senator Thomas last year. He visited this country, held meetings throughout that portion of the State embracing the coal lands, and those meetings were extensively advertised.

The people were invited to come in to the meetings, and their names were taken, and they were, each and every one of them, so far as I read the record, given an opportunity to express themselves on this

bill, and as I say, the consent and support of the bill is practically unanimous. And since the bill has been so thoroughly explained by the members of the delegation here and by the record in the hearings, both here and in Oklahoma, there is little left for me to say, but I would like to make this statement. I want to say, and I hope, too, that this statement will be remembered by the committee, that the Choctaws and Chickasaws, as members of the five civilized tribes, the Seminoles, the Creeks, and the Cherokees being the other members of the quintet—are not charges of the Government in the sense that the tribes are supported by the Government, and in that respect we are different from other Indians, so-called reservation Indians, and I do not make that distinction in any sense of disparagement because goodness we sympathize deeply with our unfortunate brothers who live by the dole, or even by Government support, and the Choctaws and the Chickasaws have never been charges upon the Government of the United States since their removal from their homes east of the Mississippi to their present homes in the West. When they went to the West under compulsion, I might say, they were assured by solemn treaties that they would have the undisturbed possession of that country as long as water flowed and grass grew.

They organized their own government. Each of the Five Tribes had their own government, fashioned pretty much after that of the white man. We had a council, the Choctaws did, consisting of the senate and house of representatives. Our chief executive officer was known as the principal chief of the Choctaw Nation. We had our courts and they were conducted after the manner of the courts of the white man. And I want to state just here that Justice Hardy, formerly of the Supreme Court of the State of Oklahoma, said to me on one occasion that he thought that the Choctaw laws as passed and codified presented a more succinct statement of the law than some of the statutes of Oklahoma.

Well, as I say, under that condition they went along until it became apparent that, owing to the influx of white people into the State of Oklahoma, then known as the Indian Territory, some system of government would have to be set up that would have jurisdiction over the white man. He was subject to the jurisdiction of the courts of the western district of Arkansas and north Texas. They had jurisdiction over the white people in the Indian Territory in those two courts, and over any crime committed in that country.

I remember on one occasion of hearing this incident in Judge Parker's court. Judge Parker was a noted criminal judge. I think that some 72 men were hung in his court. Well, anyway, it was not a court where there was much levity. He was very serious-minded. All respected him and dreaded him. As a matter of fact, the only man who ever held his own with Judge Parker was an Indian who was arraigned for sentence on a plea of guilty to introducing whisky into the Indian Territory. Well, the judge, perhaps, was out of humor on that particular occasion, and he looked up and saw this Indian and he recognized him as an old offender—otherwise he was a reputable gentleman, he had not committed any crime, or any felony—and the extent of his violation this time was carrying whisky into Indian Territory. Judge Parker looked at him and said, "You have been up here before on this same sort of charge, have you not?"

The Indian wanted to be honest with the court and he said, "Yes; this is four times."

Judge Parker thought he was getting a little bit impudent, and he said, "Well, do you know you have given this court a heap of trouble, sir?"

The Indian, thinking that this was the way honesty was going to be rewarded, took a step forward and said, "Yes; and you know this court has given me a heap of trouble, too."

The judge picked up his paper and put it up to his face, fairly shaking, and gave the man 30 days in jail. He told the prosecuting attorney, "I had in mind to give him a year and a day in the penitentiary, but after he got that off, I let him go at 30 days."

Well, as I say, it became apparent that there would have to be a State government embracing what was then the Indian Territory, and the agitation became strong.

Before that could be done the tribal title to the lands being in Federal hands, it was impossible to have a State government without dissolving this tribal title. That required agreements with the tribe that led up to what was known as the Atoka Agreement, and there were other agreements being negotiated with other tribes.

Mr. MURDOCK. That was just prior to statehood?

Mr. McCURTAIN. Yes; it was some time prior to statehood, and the Indians were a little bit adverse to entering into any sort of agreement that abolished their tribal government and superseded them in the control of their own country because they had had a pretty sore experience along that line. They thought that they had had a pretty flagrant violation of the treaty guaranteeing to them the uncontrolled possession and the undisturbed possession of the right of self-government.

Under the act of 1893, March 3, they appointed a commission, the President was authorized to appoint a commission, and then send to the Indian Territory this commission to negotiate agreements with the different tribes looking to the dissolution of their tribal title preparatory to the creation of a State in the Union. That was stated in the title of the bill.

The Indians were not very eager to change their condition and they were a little slow about entering into those agreements, and Congress got a little impatient and thought that they would just use a little coercion and in the act then pending before Congress it was provided that the Secretary of the Interior should allot these lands, give these Indians their land, and also convey to them on the part of the United States the title from the tribe to the individual allottees. But the lawyers—and there were many good lawyers then as there are today—raised the point of how were you going to get the title out of that tribe. It was pointed out that all that would have to be done would be to authorize the Secretary of the Interior to execute a deed conveying all the tribal titles to the individual members of the tribe. The lawyers said, "Nay, nay, you cannot let the title of one party out of one party to another. That has to be by the act of the parties. You cannot do it."

So then they resumed negotiations with the tribes, and as a result the Atoka Agreement was agreed upon and ratified by the tribes and by the Congress of the United States. That agreement provided

in effect—I am not attempting to state it from memory, but it had this objectionable feature—each allottee might take his share of the land, but would have no right, title, or interest to any of this coal that might be underground. And then the Indians began to think, what if someone would want to come over and prospect on my place for coal. The man may erect a tippie and put up mining machinery and turn my allotment here into a coal mine for all intents and purposes without my having any rights in the matter, so that sentiment began to gather among the Choctaws. There were other reasons too why it became necessary to enter into what is known as the supplemental agreement that you have heard much about here.

In that agreement it was provided that these coal lands that were particularly valuable should be segregated so as to not disturb the allottee in the possession of his share in this property. The Secretary of the Interior was given 6 months in which to segregate this land which was valuable particularly for coal. That was done. It was agreed very solemnly and seriously that this land should be sold at a certain time at public auction. I think perhaps within 2 or 3 years, and as my friend representing the Department very frankly admits, the ink was hardly dry on that agreement when Congress, at the behest of the coal operators, changed that to provide that no leased lands should be sold. Well, that was clearly a violation of the agreement, to start off with. Next, they came along, as he has called your attention to, and withdrew the balance of the land from sale.

At that time, gentlemen, the oil and gas were just in their infancy as competing fuels, and we urged upon the Government without success the necessity of selling that land at that time, because we could see that not in the distant future there was coming in a fuel that would compete seriously with our coal, and we wanted to sell it. But strange to say, the coal operators opposed that, notwithstanding their leasehold rights were amply protected under the law. They maintained a lobby here in Washington to see that that was not done. They did not want us to. One of them very frankly admitted to me, a good friend of mine—of course he is out of it now—but he frankly admitted to me when we talked about selling this to the Government, he said, “No, we do not want the Government handling this; no, we do not want that.”

I said, “Why, your rights will be protected.”

He said, “Yes; but I will tell you, if the Government takes this over they will have a man at the mouth of every mine to see that we pay for every ounce of coal that comes out of there.”

I said, “You do not mean to admit that you are not paying for it now, do you?”

He said, “Well, we would rather not have the Government looking on.”

They were opposed to it, and they succeeded in opposing it.

We feel now, gentlemen, if this land were sold according to the terms of the solemn agreement, we could have realized a great deal from it, but that was not done. There was an open violation of the agreement, and for that reason we feel that Congress is duty bound as our guardian to take over this coal land. That is our position on that, and if the guardian is not responsible for any injury to his property under the guardianship, then it is a strange guardianship law.

Now, gentlemen, in closing my remarks that I have been permitted to make, I would like to read briefly, and I promise you that it will not be long, a few excerpts from the decision of the Supreme Court of the United States rendered in April of this year. While it did not involve the question of coal lands, it does touch upon the question of guardianship of the United States, and not only the power of the guardian of the United States to carry out in good faith and perform its duties as such guardian, but also the duty of the Government to do that.

This decision comes, by the way, from my State of Oklahoma. This is the *Board of County Commissioners of the County of Creek, State of Oklahoma v. Evelyn Seber*, and the question involved there was whether or not lands purchased with restricted Indian funds was exempt to taxation. Justice Murphy wrote the opinion of the Court in that case. I want to read to you some of the statements of the Justice that I think bear upon the general question of the guardianship of Indians.

Mr. MURDOCK. I suggest that the judge take up the matter of these exhibits with the reporter here and put as many of them as he can in the record so we can read them.

Mr. McCURTAIN. This will be a short dissertation.

Mr. BURDICK. I think we ought to have more than that.

Mr. MURDOCK. We had better, Judge. If you will read just the more pertinent ones, that will do now, because the House convenes within 15 minutes, and we will add the others to the record.

Mr. McCURTAIN. I want to read that into the record and state the case.

Now, he says:

Of necessity the United States assumed the duty of furnishing that protection and with it the authority to all that was required to perform that obligation and to prepare the Indians to take their place as independent, qualified members of the modern body politic.

Then he cites:

This was classically summarized in *United States v. Kagama* (118 U. S., 375, 384, 385; 30 Law Ed. 228, 231, 6 S., 1109):

"From their (the Indians') very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power. This has always been recognized by the Executive and by Congress, and by this Court, whenever the question has arise."

It seems that away back there the Court was intimating that the Government has brought on a pretty bad situation by its guardianship.

Now, he again refers to the matter in this language:

As a result of the Shaw decision Congress spoke of the act of 1936 as the amendment of 1937, which intended to protect the Indians in their land purchases from restricted funds and to keep faith with them because of the implied or express representations that those lands were tax exempt. The clear implication of the Shaw case is that those acts are valid exercises of congressional power and we so hold. They are appropriate means by which the Federal Government protects such guardianship and prevents the impairment of a considered program undertaken in discharge of the obligations of that guardianship. The fact that the acts withdraw lands from the tax rolls and may possibly embarrass the finances of a State or one of its subdivisions is for the consideration of Congress, not the courts.

We think that is directly applicable to our situation. We want the Congress of the United States to authorize the purchase of this land as a discharge of its duty to us under its guardianship. That is the reason I think that particular provision is apropos.

Of course, you understand that the Indians are citizens of the United States, and of the State of Oklahoma, and in anticipating that the question might be raised that this legislation might be objected to as class legislation—and I do not hold that way—but the language of the Justice says, and on that particular point I want this in the record :

Also, it is immaterial that respondents are citizens because it is settled that the grant of citizenship to the Indians is not inconsistent with their status as wards whose property is subject to the plenary control of the Federal Government.

I just put that in there in anticipation that the question might be raised by some member as to whether or not this would be considered class legislation.

So, gentlemen, after everything has been explained so fully before, I do not think I can add anything to the discussion of this bill.

Mr. BURDICK. What was the original home of the Choctaws and Cherokees?

Mr. McCURTAIN. The Choctaws were in Mississippi and the Cherokees, I think, were from Georgia and perhaps some of them came from Tennessee.

Mr. BURDICK. What year was it that they moved over?

Mr. McCURTAIN. The Choctaws went over, for the most part, beginning in 1830, and from there on, and that in itself is no credit to the Government of the United States.

Mr. BURDICK. Were any of your people ever located in North Carolina?

Mr. McCURTAIN. Well, there might have been, yes; and some of them in Alabama.

But I want this distinction kept in mind, not only by this committee, but Congress, that we do not belong to the reservation class that are dependent upon the Government for support because the Government has never supported us, even when we were back in Mississippi, and they have not done it since we have come from Mississippi, and that, of course, was discussed by Senator Stigler, and I shall not go into that any further.

Mr. BURDICK. I wonder if Longfellow did not get his idea in writing Arcadia from the moving of the Indians against their will to some new territory.

Mr. McCURTAIN. He might have. I think that Senator Stigler discussed the matter that is now a sort of new doctrine to us. The Government takes back and they shut off all claims for expenses and for the lack of a better name they call it gratuities. We feel that if we are going to be the subject of gracious acts we ought to be consulted.

Mr. MURDOCK. I will say, Judge, this committee has many bills before it, and gratuities are figured in so the term has become pretty well used here.

Mr. McCURTAIN. That is true.

Mr. MURDOCK. I want to thank you, Judge, particularly for defining the phrase that I have used so any times about Indians and Indians. I thought I knew what it meant when I used it so many times in the past. The judge and one or two others of this delegation have made

the meaning clearer even to me. Your people have furnished so many ornaments to the bench and the bar and public office in high places. Even the Vice Presidency has been filled by one of your people, and Congress—

Mr. BURDICK. Let me ask one final question here.

If the Indians, including your people, want to sell this land to the Government, and that is what you wish, I will go along with you, but I would suggest that you find out before you sell it to them whether the gratuities are bigger than the price that you are going to get.

Mr. STEWART. We have offered to amend this, Congressman, to take care of that.

Mr. BURDICK. That is all right.

Mr. McCURTAIN. I think you are right about that. Now, regarding the representation of the Indians in high places, I remember when I was introduced to Theodore Roosevelt by a Congressman, Congressman Curtis, who afterward became Senator and Vice President of the United States, President Roosevelt seemed to sense that I was an Indian, and he asked me, "You are an Indian, are you not?" I said, "Yes," and he held me by the hand and seemed to be interested more in that question about my being an Indian, and he repeated the question, "And so you are an Indian, are you not?" And I did not know exactly what he was getting at, and I said, "Yes; I am an Indian, Mr. President, and I am proud of it." "Well," he said, "do you know that among all my ambitions I have to regret that I do not have a strain of Indian ancestry," so I thought if the President of the United States was sorry that he was not an Indian I ought to be proud of it.

I thank you.

Mr. MURDOCK. For the benefit of the record, I will say that this hearing has been opened for the benefit of those having come from a distance, and I think that we better not conclude the hearings unless we are assured by the Department that there is no further statement.

Mr. McCASKILL. That is true.

Mr. MURDOCK. With that, I will announce the hearings concluded.

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