

For Capt. Krappan

Congress Hall Hotel,

Washington, D. C.

April 25, 1914.

Hon. Robert M. LaFollette,

United States Senate,

Washington, D. C.

My Dear Senator:

Replying to your request for information concerning the amendment introduced by Senator Owen on March 5, 1914, providing for the equalization of all allotments in the Creek Nation of agreement Indians, upon a basis of \$900. and also the amendment adopted by the Committee which was introduced by Senator Owen on March 5, 1914, authorizing suit to be brought in the Court of Claims to recover such sum as will be necessary to complete the equalization of allotments upon a basis of \$1040., I desire to submit the following facts:

Before the introduction of these amendments by Senator Owen to the Indian Appropriation Bill there was introduced in the House by Congressman Lavenport, of Oklahoma, a bill containing the provision for the equalization of allotments upon a basis of \$900. and conferring jurisdiction upon the Court of Claims to determine the claim of the Creek Nation against the United States for such sum as will complete the allotments upon a basis of \$1040.

Thus it will be seen, that in this bill the provisions of both amendments offered by Senator Owen were incorporated. This bill was referred to the Department of the Interior for a report and on

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the 4th day of April, 1914, the Honorable, the First Assistant Secretary of the Department of the Interior transmitted to Mr. Stephens, Chairman of the Committee on Indian Affairs of the House of Representatives the following:

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19790-14 DEPARTMENT OF THE INTERIOR  
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Washington

April 4, 1914.

Equalization of  
Creek allotments.

My dear Mr. Stephens:

In response to your request of February 21, 1914, for a report on H. R. 13608, introduced in the House of Representatives on February 19, 1914, by Mr. Lavenport, of Oklahoma, and entitled "A Bill Providing for equalization of the Muskogee (Creek) Nation of Indian allotments, and for other purposes," and to be advised whether there are Creek tribal funds available to make such equalization payment on the basis fixed in the Bill, I have the honor to transmit herewith a statement showing that there was on deposit to the credit of the Creek tribe in the United States Treasury on February 23, 1914, the sum of \$2,784,797.93, and there had been deposited of Creek tribal funds in the National and State Banks, of Oklahoma under the Act of Congress approved March 3, 1911 (36 Stat. L., 1056-70) with accrued interest, the sum of \$1,100,256.85, making a grand total of \$3,885,-  
054.78 of Creek tribal funds.

The Creek tribal funds on deposit in the National and State Banks of Oklahoma under the above act may, under Section 7 of the regulations approved October 27, 1911, as amended February 21, 1912, to carry into effect the above act, "be withdrawn at any time by direction of the Secretary of the Interior without prior notice thereof."

The Commissioner to the Five Civilized Tribes, Muskogee, Oklahoma, under date of March 4, 1914, advised the Commissioner of Indian Affairs that \$3,059,939 is required to equalize Creek allotments (excluding new-born children) to the value of \$900, and under date of April 3, 1914, he further advised that to include new-born children (2875 in number) on the same basis (\$900) would require \$1,413,565 additional, thus making a total of \$4,473,504 required to equalize all Creek allotments to the value of \$900, for which there are only \$3,885,054.78 of Creek tribal funds available, leaving a deficit of \$588,449.22. So it will be seen that there are not sufficient Creek tribal funds available for equalization of all Creek allotments to the value of \$900. Therefore, I suggest that the figures \$900, occurring in line 5, page 2 of the bill be changed to \$800.

Out of a total of 18,704 Creek citizens, about 4,500 have already received land and money exceeding in value the sum of \$800 which number includes 850 who have received allotments of 160 acres of the value of \$1040. Of this last number, under the provision that

precluded the appraisal of land "not to exceed \$6.50 per acre", 158 allottees received allotments in excess of \$1,040, such excess being \$1600.69. Of the 15,784 persons enrolled under the original Creek Agreement approved March 1, 1901 (31 Stat. L., 861) and the Supplemental Creek Agreement, approved June 30, 1902 (32 Stat. L., 500) who may be called "Agreement Indians", 11,263 of them have received allotments of 160 acres of land of less value than the standard value of \$1,040, and additional payments, in varying amounts, to each, but totalling \$1,826,683.00 will be required to equalize their allotments on the basis of \$800 as now suggested, and not \$900 as proposed in the bill.

Of the 2930 persons enrolled under the subsequent Acts of Congress approved March 3, 1905 (33 Stat. L., 1048) and April 26, 1906 (34 Stat. L., 137) who may be termed "New borns", 2858 of them have received allotments of 160 acres of land, but of less value than \$800, for whom it will take \$1,116,940 to bring their allotments up to a value of \$800 each, thus making a total amount of \$2,943,573 required to equalize all Creek allotments to the value of \$800 each, which amount subtracted from \$3,885,054.78 of Creek Tribal funds will leave a balance of \$941,481 available for current Creek tribal expenses. However, I suggest that of the \$2,943,573 required to equalize all Creek allotments to the value of \$800, that \$1,116,940 required to equalize the allotments of "new born" children be set apart and with-

held from payment at this time until it is determined judicially that "new born" children are entitled equally with "agreement Indians" to have their allotments equalized upon the same basis as "agreement Indians". If distribution be made only to the "Agreement Indians" upon the basis of \$800, as suggested, and under the terms of this bill, there will remain in the Treasury sufficient funds, \$1,116,940, to answer an award of equal amount to "new born" children and a balance of \$941,481 to meet current Creek tribal expenses. The following table will show the amounts required on the basis of \$800 instead of \$900 as proposed in the bill:

For 7,277 citizens by blood	\$1,244,500	
For 3,986 freedmen,	<u>582,133</u>	
Total required for 11,263 citizens by blood and freedmen (excluding new borns)		\$1,826,633.00
Total required for 2858 "new borns" citizens by blood and freedman,		1,116,940.00
Total required for 14,121 "Agreement Indians" and 2858 "new borns".		2,943,573.00
Total amount in Treasury,		3,888,654.78
Balance for current expenses,		941,481.00

The question arises as to whether the United States guaranteed to all Creek allottees, including the new born children, an allotment of land of the standard value of \$1,040, as claimed by the Creek tribe.

The original Creek Agreement with the United States, negotiated March 8, 1900, approved March 1, 1901, ratified by the Creek Council May 23, 1901, and proclaimed by the President June 23, 1901, Section 2 thereof, (31 Stat. L., 861) after providing for the appraisal of lands belonging to the Creek tribe of Indians in the Indian Territory at their true value, excluding only lawful improvements on lands in actual cultivation, provided further in Section 3 thereof for an allotment of all tribal lands among the citizens of the Creek tribe so as to give each an equal share of the whole in value, as nearly as may be in manner as follows:

"One hundred and sixty acres of land valued at six dollars and fifty cents per acre, shall constitute the standard value of an allotment, and shall be the measure for the equalization of values.

The original Creek Agreement remained in force about one year, when it was superseded by the Supplemental Creek Agreement approved June 30, 1902 (32 Stat. L., 500), which was ratified by the Creek National Council on July 26, 1902, and proclaimed by the President on August 8, 1902, whereof Section 2 changed the method of appraisal of the lands at their true value, as provided in Section 2, of the original agreement, which was amended to read that all lands "shall be appraised at not to exceed six dollars and fifty cents per acre, excluding only lawful improvements on lands in actual cultivation."

Section 3 of the Supplemental Agreement amended paragraph 2

of Section 3 of the original agreement to read:

"If any citizen select lands, the appraised value of which is \$6.50 per acre, he shall not receive any further distribution of property or funds of the tribe until all other citizens have received lands and moneys equal in value to his allotment."

Creek tribal officials sought the enactment by Congress of the Act of March 3, 1905 (33 Stat. L., 1048), under which 2,099 minor children, both blood and freedmen, born after May 25, 1901, and prior to March 4, 1906, and living on said latter date, were enrolled, and the later act of April 26, 1906 (34 Stat. L., 157) under which were enrolled 821 minor children, both blood and freedmen, living on March 4, 1906, whose parents had been enrolled, making a total enrollment of 2,920 new born children enrolled under the above acts.

The Creek tribal officials claim that at the time they sought the enactment by Congress of the two above acts enrolling the new born children, they had no knowledge of the exact number of Creek agreements, nor of the amount of land already allotted to them. Believing that there would be a surplus of unallotted tribal lands, and that all of their children were equally entitled as allottees, they sought the enactment of the above acts enrolling their new born children born after May 25, 1901 up to and including March 4, 1906, numbering 2920 minor children, of whom 1,135 are Creek freedmen new born minors. Had the enrollment been completed and stopped with

the enrollment of minor children living on May 25, 1901, there would have been sufficient lands and tribal funds to equalize all allotments on the basis of \$1040, as provided in the original and supplemental agreements, to the 15,784 persons enrolled under the original and supplemental agreements.

An additional enrollment of 2,930 new born minor children under the subsequent acts of March 3, 1905 and April 26, 1906, produced the deficiency, of which the Creeks now complain, and charge that the United States is liable to make good the deficiency, and ask that jurisdiction be conferred upon the Court of Claims to hear and determine whether the United States guaranteed that every Creek allottee, including new born children, should have an allotment of the standard value of \$1,040, and whether the United States is liable to the amount of \$3,028,878.17, required to equalize all Creek allotments on that basis.

To settle the controversy, which has arisen at several sessions of Congress, I offer no objection to a reference of the matter to the Court of Claims for adjudication, and as this is a tribal and not an individual claim, the Creek Tribal Attorney, who is capable, should alone appear on behalf of the Creek tribe. I suggest that the words "Principal Chief" be inserted in lieu of the word "governor" appearing in line 19, page 2, of the Bill, as the proper designation to be given the executive of the Creek Nation, and that after the



words "Creek Nation", appearing near the beginning of line 20, page 2 of the Bill, there be inserted this language: "and the Attorney General shall appear on behalf of the Government of the United States and defend the action herein authorized". I suggest further that in lieu of the words "subsequent agreements", appearing in line 7, page 1 of the bill, there be substituted the words "the supplemental Creek agreement approved June thirtieth, nineteen hundred and two (Thirty-two Statutes, page five hundred).

Inasmuch as Section 31 of the Creek Agreement approved March 1, 1901 (31 Stat. L., 661) provided that "the United States shall pay all expenses incident to . . . allotments of land made under the provisions of this agreement, "it is believe that the expense of equalizing Creek allotments on a money basis, which will be in lieu of land, should be borne by the United States, and it is suggested that immediately after the figures \$1,040, occurring in line 6; page 2 of the Bill, there be inserted the following language: "and the sum of \$10,000 is hereby appropriated out of any moneys in the United States Treasury not otherwise appropriated to pay all the expenses incident to the equalization of Creek allotments under this provision."

To afford proper protection to restricted allottees from imposition, I suggest that the bill as amended by adding thereto the following:

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"That all payments hereunder to restricted Creek allottees shall be made by the United States Indian Superintendent, Union Agency, Muskogee, Oklahoma, under the same supervision as is now exercised over the payment of individual funds accruing from the sale of restricted lands of allottees."

With these suggested amendments, I urge the enactment of the Bill into law.

Very truly yours,

(Signed) A. A. Jenos,

First Assistant Secretary.

4-4-WJG

Enclosure #111216,

Hon. John H. Stephens,

Chairman, Committee on Indian Affairs,

House of Representatives.

It will be observed that after equalizing all of the allotments in the Creek Nation of both the "agreement" and new born Indians and freedmen there will still be left in the Treasury of the United States to the credit of the Creek Nation, the sum of \$941,481 and this sum will be greatly increased by the sale of a few allotments, tracts of land and a number of town lots remaining unsold in the Creek Nation.

It is estimated it will require about \$50,000 to pay the running expenses of the Creek Nation until the final settlement of

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the affairs of the tribe. This will leave about \$900,000 in cash and considerable more than \$100,000 worth of property to the credit of the Creek Nation which will be considerably more than will be necessary to pay the amount that will be due to those Indians and freedmen in the Creek Nation who might hereafter be admitted to the rolls, even though you should admit all of the persons anyone has ever contended should be admitted.

I do not think that it has ever been contended by anyone that more than 300 Creeks are entitled to enrollment. The Department and all of the 18,000 Indians I represent contend that there are only about 79, whose names are contained in the list of 58 on the rolls of the Five Civilized Tribes, who on account of the automatic closing of the rolls were not given time to have their applications considered and 64 who have been discovered since by the Indians and the Department of the Interior. Should, however, the contention of Ballinger, Bentley et al., be upheld and should the Committee determine to give them double the value of an allotment, the standard value of which by the amendment adopted by the Committee for the purpose of equalizing allotments has been fixed at \$800, there would still be left in the Treasury more than \$400,000.

For years and years the Creek Indians have been clamoring for this mere pittance of what is conceded to be their own. It is especially important that this provision of the Indian appropriation

bill be enacted into law at this time in view of the fact that for four years we have had crop failures in Oklahoma, as has also been true in most of the western states. The Indians who would be benefited by this provision have, of course, the poorest of the lands in the Creek Nation, which, on account of the general crop failures have received practically nothing from their land for a good many years and are now in destitute circumstances.

Supplementing the statements contained in the report of the Assistant Secretary of the Interior and in further justification of the second amendment proposed by Senator Owen and adopted by the Committee on Indian Affairs, I desire to say that when the Creek Indians agreed to give up their communal estate in the Creek Nation and accept allotments of land in severalty, they relied upon the agreement of the Government to distribute equally among them their lands. Whether or not, technically they are now entitled to be paid out of the Treasury of the United States the difference between the value of their allotments as fixed by governmental appraisers and the standard value of allotments of \$1040, applying the funds now to their credit in the Creek Nation for such purpose is debatable but that every member of the Creek Tribe of Indians believe in good faith that they would be paid by the Government of the United States such sum as would equalize their allotments upon a basis of \$1040 cannot be successfully disputed.

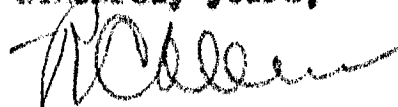
I had decided, after investigating the claim of the Creek Indians to go to Congress with a provision authorizing the direct appropriation of this money but inasmuch as it was believed by a number of Senators and Congressmen with whom I discussed the matter, that such legislation could not be enacted, I have asked that they simply be given the right to sue the United States in her own courts to determine whether or not the Creek Nation is legally entitled to recover the amount they are claiming.

Granting that it is contended by some of the Representatives in Congress that our claim is not a legal one and that it is believed by the 18,000 members of the tribe that they have a legal claim, it occurs to me that the Senate would be unfair and unreasonable to deny the right to allow the Court of Claims, reviewed by the Supreme Court of the United States, to determine this controversy. Such action would comport, in my judgement with right and justice and would be approved by the good consciences of every man familiar with this situation.

I shall be pleased to have your approval of these provisions of the Indian Appropriation Bill.

With great respect, I beg to remain,

Very sincerely yours,



Attorney for the Creek Nation.