

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior, of the 24th instant, with accompanying papers, submitting the draft of a proposed clause for insertion in one of the pending appropriation bills, to provide for the payment of certain legal services rendered to the Cherokee Indians in North Carolina, in 1881 amounting to \$150.

JUNE 6, 1882.—Read and referred to the Committee on Appropriations and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication from the Secretary of the Interior, of the 24th instant, with accompanying papers, submitting the draft of a proposed clause for insertion in one of the pending appropriation bills, to provide for the payment of certain legal services rendered to the Cherokee Indians in North Carolina, in 1881, amounting to \$150.

The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *June 5, 1882.*

DEPARTMENT OF THE INTERIOR,
Washington, June 1, 1882.

SIR: I have the honor to submit herewith an estimate of appropriation in the sum of \$150 for the payment to Judge I. L. Henry, of North Carolina, for services rendered to the North Carolina Cherokees in a suit instituted against them by the administrator of the estate of Thomas Tatham, deceased, in the superior court of Graham County, North Carolina, spring term 1881, wherein execution had issued against their lands.

A copy of the letter of the Commissioner of Indian Affairs, of the 21st ultimo, transmitting the papers to the department, is also inclosed with the correspondence noted therein; and, agreeably to the recommendation of the Commissioner, I respectfully request that the matter may be presented to Congress for the consideration and action of that body.

I have the honor to be, sir, very respectfully,

Your obedient servant,

H. M. TELLER,

Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 21, 1882.

SIR: On the 18th of May, 1881, Mr. James W. Terrell, of Webster, Jackson County, N. C., wrote to this office that some forty years ago some of the Cherokee Indians, who were heirs of the reserves under the treaties of 1817 and 1819, employed Thomas C. Tatham to survey some of the reservations; that his fees, to the best of his recollection, amounted to some \$300 or \$400, and had never been paid; that Mr. Tatham died a year or so ago, and his administrator obtained judgment against the band for nearly as many thousands as the original debt amounted to of hundreds; that an execution had been issued and it was proposed to sell the lands of the Indians in Cherokee and Graham Counties, North Carolina, to satisfy the judgment; that the Indians were without money or the means to raise money, and that unless some one located there should be invested with power to afford them protection their rich domain of country would soon be gone.

Believing that a local attorney of character and ability to be indispensably necessary for the protection of these Indians, Hon. James L. Henry, of Asheville, N. C., ex-judge of the ninth judicial district, was favorably recommended on account of his high character and pre-eminence ability, and as being altogether unmixed with any previous Indian complications in that country. Accordingly, on the 24th of May, 1881, this office requested Judge Henry to interpose in behalf of the Indians and endeavor to stop the threatened sale of their lands, which was to have taken place on the 6th of June, 1881, under an execution alleged to have been issued. He was advised that there were no funds available to pay for any services that might be rendered in behalf of the Cherokee Indians of North Carolina, but that an estimate for an appropriation or recommendation for authority to pay for such services would be presented to Congress and its passage urged at the ensuing session.

This office had always held that if Mr. Tatham had a valid claim it was against individual Cherokees and not against the band, and it is a mystery how a judgment could be given against a *band* for work performed forty years previously for individual Indians, some of whom affirmed that they had paid Mr. Tatham for the survey of their pre-emption rights under said treaty. The claim, however, had passed to a judgment, and its satisfaction had to be stopped, and for that purpose it was proposed to employ Judge Henry to obtain a temporary injunction, restraining order, and supersedeas to be made perpetual, or dissolved on a hearing to be had on the 22d June, 1881.

Under date of June 24, 1881, a certified copy of the judgment rendered in the case of Tatham against the Eastern Band of Cherokee Indians in North Carolina was forwarded by Judge Henry, which is as follows:

In the superior court, Graham County, spring term, 1881.

POLLY TATHAM, ADM'X OF THOMAS TATHAM,	}
deceased,	
against	
THE EASTERN BAND OF CHEROKEE INDIANS	}
of North Carolina.	

This cause coming on to be heard on the former restraining orders, affidavits filed, exhibits, proofs, and arguments of counsel, and being heard and considered by the court, it is now, on motion of defendants' counsel, J. L. Henry (the plaintiffs con-

senting thereto), considered and adjudged that the plaintiffs be perpetually enjoined from suing out and issuing execution on the judgment heretofore obtained in this action, to wit, at fall term, 1879.

R. T. BENNETT,
Judge Presiding.

This, Judge Henry says, finally disposes of the matter in said court under that decree, and for the services rendered in said case he presents a claim of \$250.

From the foregoing judgment of perpetual restraint, and from the certificate of Mr. Henry (copy herewith) as to the merits of the claim, filed in this office February 20, 1882, by Hon. R. B. Vance, an arrangement appears to have been entered into by Mr. Henry whereby the temporary injunction was, by consent of plaintiffs' counsel, made perpetual in consideration that he would recommend the payment of the claims, and that he would make a statement before Congress as to the justness of the same.

For the amount and character of service rendered, I am of the opinion that Mr. Henry is not entitled to the sum claimed.

Taking this view of the case, I recommend that Congress be asked to appropriate the sum of \$150 to pay James L. Henry, of Asheville, N. C., for services as attorney in behalf of the North Carolina Cherokees, to be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

I submit herewith a draft of an item for such an appropriation to be added to the deficiency or sundry civil appropriation bill.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

For this amount, to pay James L. Henry, of Asheville, North Carolina, for services as attorney in behalf of the North Carolina Cherokee Indians, in the case of Polly Tatham, administratrix of Thomas C. Tatham, deceased, against the Eastern Band of Cherokee Indians of North Carolina, one hundred and fifty dollars, to be paid out of any moneys in the Treasury not otherwise appropriated.

GRAHAM COUNTY, NORTH CAROLINA,
In the Superior Court:

I certify that in the course of professional services, in the employment of the Commissioner of Indian Affairs, I have had occasion to examine the claim of Polly Tatham, administratrix of Thomas Tatham, deceased, for services rendered in surveying pre-emption claims, and I am satisfied that the services were rendered, and that Tatham has not been paid therefor, and, in my opinion, Congress ought to make a special appropriation for that purpose.

J. L. HENRY,
Attorney at Law.