September 24, 1945

Honorable Ad V. Coppedge
Attorney at Law
Grove, Oklahoma

Dear Judge:

I have your letter of the 14th instant relative to title to a piece of property which you say has been litigated and ultimately decided against your client.

I have read your letter several times, and can't get away from my legal reasoning which seems to be based upon a theory that an Act of Congress will not upset the decision of the Court. In other words, as to your individual case, I do not think Congress can pass a law which can take the property of one and give it to another. That is exactly what it would be doing here, regardless of the moral issues involved.

From your experience on the bench, I am sure you will agree with me that, in principle, this line of reasoning is sound. If an Act had been introduced and passed prior to the time the suit to quiet title was instituted, I have no doubt that the Act of Congress would have validated client's title. But since the suit was instituted prior to this enactment, and the Court finally determined that your client was not entitled to this property and in effect gave it to her adversary, I am seriously of the opinion that Congress is without power or authority to take it away from the person to whom the Court gave it.

I have given this matter a lot of thought, and I always fall back upon the practical solution of a problem as the best course to be pursued. Many have said they hired me because I was a business lawyer, by which they meant practicalyrather than intensely theoretical. It occurs to me that you might be able to acquire the interest of one or more of those who under the opinion of the court are the owners of this property. Of course, it would be better to acquire all the interests, if they can be acquired economically. If not, perhaps one or more interests

may be acquired, and then you could partition against the remaining heirs. I assume that they would not be able to buy the property at its appraised value, and that you might be able to elect to buy the other interests. This is the most feasible suggestion I can offer at this time, knowing only the facts which you have presented to me.

I wish I could be more consoling and be of more help to you, but I don't think Congress can help you out of this unfortunate dilemma. However, if you want me to introduce a bill I will do it, and see where we get. In advance, I am suggesting to you that I do not think it will ever get out of Committee with a favorable report; and candidly, I don't think it should, for I don't think that would be sound legislation. You know I want to help you, and you know I will go my limit; but I think you always know I will give you the benefit of my best judgment. That is what you asked for, and that is what I am conscientiously endeavoring to express in this letter.

Assuring you of my sympathy and desire to cooperate with you in every way possible, I beg to remain

Sincerely yours,

George B. Schwabe, M.C.

GS:LW

Law Offices
Ad V. Coppedge
Grove, Oklahoma

September 14, 1945

Honorable George B. Schwabe,
House of Representatives,
Washington, D. C.

Dear Congressman:

I am just in receipt of your letter bearing the date of September 10, 1945, replying to a letter which I had written to you referring to the recent Act of Congress validating certain Indian land titles.

My client is a widow and about the fourth grantee removed from the original deed from the allottee. On a casual examination I held the title good--most lawyers in Eastern Oklahoma held the same way under these Carney-Lachery deeds. She sold the land and the purchaser refused to take it--the title examiner said in his opinion that the title was good but there was a possibility that the act of Congress might be interpreted the other way. Suit was brought to quiet the title in the state court and was removed to the federal court. The trial judge held the title good and an appeal was taken, and the Circuit Court of Appeals reversed the trial judge and the Supreme Court upheld in the Circuit Court of Appeals.

The original case was handled by Judge Yeager and his associate, and finally I arranged to have the case taken over by George H. Jennings of Sapulpa and Mr. Semple of Tulsa, and Mr. Champion also set in on the conferences.

When this act was passed I figured it reached not only the cases where the title was held under this kind of deed but would also apply to all the cases no matter whether judgment had been rendered or not, and so advised my client. This has been a headache and a nightmare, and everything combined to me, and I have never been more embarrassed or in an unhappier position. I was on the losing side. The decision so absolutely unjust that I cannot reconcile myself to it but it was rendered nevertheless.

At one time Senator Thomas, as I understand, tacked an amendment on to a bill specifically validating this title, and that was not passed, and later this bill which did pass was gotten up and was supported by leading men throughout the State. Now, the principle is just the same as if the judgment had not been rendered adversely to my client. The time within which to take any action in the courts has expired and I am just wondering if there is some way to get rid of that adverse judgment. Other lawyers interested in similar cases have stated that the Interior Department would be friendly to approving a deed for a nominal consideration. One trouble about that is that the man

whom I knew very well, if living, would execute such a deed but he died several years ago and left quite a family, and I have little hopes of being able to secure a deed from each of them. It has occurred to me that one might present an application to the Interior Department, setting up the chain of title and setting up the facts, and possibly secure an approval of the title. That procedure disturbs me very much, though advocated by Simple and rather indefinitely suggested by Jennings, who has a case not quite like this but where the court record is against him on other grounds and for other reasons.

I notice in the Congressional Record somewhere that a special bill had been introduced to validate the title to some individual to a certain tract of land. All the equities in this case are in favor of my client, who bought the land in entire good faith and as stated above, she is about five times removed from the original allottee--I believe her deed is the fifth deed. The thing is so meritorious in her favor that I just wonder if a special act of Congress could be passed and whether you would be willing to undertake the job. At this time I am not asking you to do that but just suggesting it for your consideration.

Neither the allottee nor any member of his family ever made any question about this title, but you know how it is when you find out you have a chance to get something, it whets the ambition of the people and while a gift, they are slow sometimes to refuse to take it. I do not have too much faith in that sort of a proceeding, by that I mean, securing a deed from all these heirs of the allottee; or if the courts had the power to do it, I feel sure that they in view of this act of Congress, would be willing to set aside its former decree but I do not know of any way to reach that through the courts.

I appreciate your letter and would be pleased to have your further judgment about it.

With kind regards and best wishes.

Truly yours,

Ad V. Coppedge

AVC:jke

September 10, 1945

Honorable Ad V. Coppedge
Grove,
Oklahoma

Dear Judge:

I am just in receipt of your letter of the 1st instant, referring to the recent act of Congress validating certain Indian land titles. You say that your client lost her case in the courts and that a judgment is outstanding holding against her. I don't know just which side of the case you were on. If you will let me know the position of your client, I might be better able to give you the benefit of my judgment.

For example, if the judgment has become final, it seems to me that the act would not have any effect upon your client's rights. However, if there is an appeal pending or still an opportunity to appeal from the judgment, the act might be determinative of the controversy.

The act was designed as a curative statute, or a validating measure. Generally speaking, in the absence of fraud and where some technical requirement had not been complied with, and where the Indian, or Indian heir, had not been overreached, it was considered only proper and fair between man and man that the title should be validated by Congress. Of course, the application of the act was doubtless intended for cases where no final judgment had been entered.

I wish I might be able to suggest something more helpful and concrete and I believe I can if you will let me know more fully the facts and circumstances connected with your case. I assure you that it will be a pleasure to render every possible assistance to help you determine the effect of this act, if any, upon the case you have in mind.

With kindest personal regards, I am

Your friend,

CMG

George B. Schwabe, M. C.

LAW OFFICES
AD V. COPPEDGE
GROVE, OKLAHOMA

September 1, 1945

Honorable George B. Schwabe,
House of Representatives,
Washington, D. C.

Dear Congressman:

Referring to the recent bill passed by Congress validating titles to Indian lands--my particular client lost her case in the courts and a judgment is outstanding holding against her. I was so enthusiastic when this law passed that I immediately notified her that her title was now all right. Since that time I have had some contact with lawyers and it appears that I am still in troubled waters. Some lawyers suggest going through an Interior Department on securing an approved deed.

My client is about four or five deeds removed from the original owner and it does not look feasible to me. I would appreciate having the benefit of your judgment on that.

Truly yours,

Ad V. Coppedge

AVC:jke