

and could, so far as section 4 is concerned, have directed a different payment. But until a change, in the legislation of the National Council, is effected the operation of section 4 is to legalize the direction by the National Council, existing at the date of said act of Congress, directing the payment of ten per cent. to attorneys; and its effect is to so legalize it without regard, as already remarked, to any other existing act of Congress, whether it be section 2103 or otherwise.

But the National Council not only has not changed its legislation, but it seems to be left to speculators in Tennessee and others, by this application to the Attorney-General, to take charge of the affairs of the Creek Nation, and institute suits in the name of the United States, in which the United States has no interest, and which the action of the Creek Nation shows they do not approve.

After the attorneys have been duly settled with and paid in pursuance of the laws of the Nation, and the whole business closed, it is, of course, not competent for any party, *not even the National Council*, to alter its legislation and thus recover back said payment so lawfully made under the laws of the Nation.

The pending case being considered in the light alone of this second point now submitted, we insist that no illegality or impropriety is traced either to the Creek delegates or to Governor Crawford, in the matter under consideration, and we respectfully submit that the Attorney-General will hardly give his approval to prosecutions so in disregard of law and of justice.

We now turn to another and distinct defense in this case, and the last one we deem it necessary to present.

It is this: That even if the action of Crawford, above recited, would bring him within the prohibitions of sections 2103 and 2105, if the matters transacted by him had been for other tribes of Indians than one of the five "civilized tribes," yet that these sections do not apply to