

LAND CLAIMS, &c. UNDER 14th ARTICLE CHOCTAW TREATY.

[To accompany bill H. R. No. 622.]

MAY 11, 1836.

Mr. BELL, from the Committee on Indian Affairs, made the following

REPORT :

*The Committee on Indian Affairs, to which were referred the memorials of certain Choctaw Indians, claiming reservations under the 14th article of the treaty of Dancing Rabbit creek, and the resolutions and other proceedings of the Legislature of the State of Mississippi, together with the memorials of sundry citizens of said State, remonstrating against the confirmation of said claims, have had the same under consideration, and make the following report :*

The subject submitted to the committee under the several orders of the House, in relation to claims for reservations under the 14th article of the treaty made with the Choctaw Indians, at Dancing Rabbit creek, on the 27th September, 1830, involves interests of considerable magnitude, both to the Government and to the Indian claimants, and the committee have given to it a correspondent attention.

The 14th article of Dancing Rabbit creek is in the following words :

“ Each Choctaw head of a family, being desirous to remain and become a citizen of the United States, shall be permitted to do so, by signifying his intention to the agent within six months from the ratification of this treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to half that quantity for each unmarried child which is living with them, over ten years of age; and a quarter section to such child as may be under ten years of age, to adjoin the location of the parent. If they reside upon said lands, intending to become citizens of the States, for five years after the ratification of this treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.”

All the embarrassments which have arisen in the execution of this article of the treaty of Dancing Rabbit creek, and the only question of any difficulty now presented for the decision of Congress, will appear, upon a full consideration of the subject, to have originated in the neglect of the agent,

whose duty it was to receive and register all applications for reservation under that article, and in the policy pursued by the Government of bringing the lands in the Choctaw district into market before the number and location, under this article of the treaty, were ascertained and adjusted.

There does not appear to be any room for doubt or cavil as to the proper construction of this article of the treaty: First, it is clear that no reservation can be allowed to any head of a family who did not, in some form or other, signify his intention to become a citizen of the State, and to take a reservation according to the provisions of this article, within six months from the ratification of the treaty. Secondly, that every such claimant must be shown to have had in his possession or occupancy at the date of the treaty an improvement of some kind, a house or cabin, a field or enclosure of some size. Thirdly, that before a patent can issue to such claimant, he or she must be shown to have continued to reside upon the land claimed during the term of five years from the date of the treaty, unless prevented by violence or the act of the Government.

The treaty was ratified on the 24th day of February, 1831, and on the 24th day of August following, the time limited for making declarations of an intention to take reservations under this article of the treaty expired. It does not appear that the agent, William Ward, whose duty it was to receive and register these declarations, was advised of the ratification of the treaty, or that he received any instructions in relation to his duty under it, until a communication from the Department of War, bearing date the 21st of May, 1831, reached him, at the Choctaw agency, which would allow less than three months for those who desired to take reservations, under this article of the treaty, to signify their intention to do so to the agent. It does not appear that the agent received any instructions as to the manner in which he should execute his duty under this article of the treaty, except that he should be careful in keeping a register of the reservations under it, and that he should transmit a certified copy thereof for the information of the Department of War. The terms of the treaty were to be his only guide, all besides was left to his discretion. No further step appears to have been taken by the Government in the execution of this article of the treaty, until the 26th of June, 1833, when George W. Martin was appointed by the President to make the selections, and to locate all reservations under the 15th and 19th, as well as the 14th article of the treaty. The locating agent was advised of his appointment, and received his instructions, on the 5th of August following. By the latter he was directed to apply to Col. Ward and Capt. Wm. Armstrong, at the old agency, for copies of the registers of each class of reservations under the treaty, and to make them the guide of his conduct in assigning and making reservations. Upon application to these gentlemen on the 11th of September, 1833, he was informed that he could not be furnished with perfect copies of the registers under either article of the treaty. He was, however, supplied with two lists, having the appearance of duplicates, one of which was certified by the agent, containing the names of heads of Choctaw families, who had signified their intention to become citizens, and to take reservations under the 14th article, but they did not correspond. Col. Ward stated that he had transmitted the original register to the Department of War; that he had kept no official copy, and he would not answer for the accuracy of the copies which he furnished at that time. Captain Armstrong, at the same time, informed him that these lists were imperfect. The locating agent immediately informed the Department of these

facts, and requested copies of the registers transmitted to the Department. On the 8th day of September, the locating agent had received a letter from the Department of War, under date of the 8th of August, 1833, by which he was advised that the President had determined to offer the lands ceded by the treaty of Dancing Rabbit creek for sale, on the third Monday (21st day) of October, following, and that it would be necessary that the locations of all the reservations provided for in the treaty, should be completed and entered in the proper land offices before that time. The region of country in which these locations were to be made, extended three hundred and fifty miles in one direction, and one hundred and fifty in the transverse direction, and the communications between the different sections of it at that time difficult and uncertain. There were five distinct land offices, at each of which some portion of these locations were to be entered, viz: Choctawhatchee, Columbus, Clinton, and Augusta in Mississippi, and Tuscaloosa, and Demopolis in Alabama. These offices were situated at great distances from each other; and when it is recollected that the public sales were to commence within less than three months from the time at which the locating agent was advised of his appointment, and in less than two months of the time when he was notified that the lands were to be brought into market, it will appear that the agent could not have complied with the expectations of the Government in completing his duties under the several articles of the treaty granting locations, even if he had been furnished with the registers and other useful information. But it appears that the locating agent was not furnished with maps or plats of survey of any of the districts or sections of the country within which it was made his duty to make the numerous locations required by the treaty; and after having waited in vain for copies, from the General Land Office, which had been promised him, he was again disappointed in his application to the office of the surveyor general of the district, and to the several land offices in the same. Finally, he was informed that he was expected to make such use as he could of the plats in the several Registers' offices, as his only resource in this respect. It also appears that no copies of any of the registers returned by Col. Ward to the War Department, were received by the locating agent until within three days before the commencement of the public sales, and even then no copy was received of the register under the 14th article. On the 15th of September, the locating agent advised the Department fully of the difficulties which would under these circumstances attend the execution of his duties, in so short a space of time; and he pointed out the great injustice and embarrassments which would arise, if no other reservations should be withheld from sale, than such as could be satisfactorily and finally ascertained and located before the sales commenced.

The locating agent, under these circumstances, proceeded to locate the reservations of all such heads of families whose names appeared on the certified list furnished by Col. Ward, under the 14th article of the treaty, and also of those who produced separate certificates of Col. Ward, that they had made the proper declaration in due time. All others who applied to have their reservations located and reserved from sale, were informed that they could not be allowed reservations, inasmuch as their names did not appear upon the register of the agent. The lands of all other claimants were, of course, sold in all those sections of the country which were surveyed and brought into market at that time, subject, however, to the condition expressed in the proclamation offering said lands for sale, that if any reservation

secured to any Indian by the treaty should be sold, such sale would not be confirmed.

It was soon ascertained that there were many who claimed reservation under the 14th article, whose names were not to be found upon either of the lists furnished by Col. Ward, and who had no certificate of the necessary declaration. It was objected by some that Col. Ward had neglected to register their names, although they made the proper declaration in due time; others affirmed that their names had been registered, but that a part of the register, or the paper upon which their names had been taken down, was lost; and others alleged that he had refused to register their names when applied to for that purpose.

The complaints upon these grounds became so numerous, and the individual applications to the Government for relief increased in such a degree, that on the 13th of October, 1834, the locating agent was instructed by the Department of War, under the direction of the President, to give public notice, that those Indians who considered themselves entitled to reservations under the 14th article of the treaty of Dancing Rabbit creek, and whose names were not upon the register of Col. Ward, should exhibit to the locating agent the evidence of their claims. These instructions further authorized the locating agent to make locations for all such heads of families, as should bring themselves within the provisions of the 14th article, and who should satisfy him by proof that their names were not registered by reason of the mistake or neglect of the agent. In all cases in which the lands claimed had been sold, the locating agent was directed to designate lands of equal quantity, and of as nearly equal value as practicable, and all reservations located under these instructions, were directed to be reserved from sale, and were only to become valid and absolute by the confirmation of Congress. The locating agent was strictly enjoined to make detailed reports, showing the names, standing, and credibility of the witnesses, and all the facts and circumstances in each case, with copies of the papers presented by each claimant, that their claims might be laid before Congress. The locations made under the instructions of the 13th October, up to the 24th of December, 1834, with the accompanying evidence, were submitted to Congress by the President, on the 9th of February, 1835, referred to the Committee on Indian Affairs in the House of Representatives, and a bill was reported to the House, providing for a more full and satisfactory investigation of the claims, but it was not fully acted upon. The locating agent was informed by letter from the Department of War, under date of the 11th of March, 1835, of the failure of Congress to act upon the claims which had been presented; and he was further directed to report the locations he *had* made, and those he *might* make, under the instructions of the 13th of October, to the Department, that they might be laid before the next (present) Congress. These instructions of the 11th March, 1835, were accompanied with the assurance that the lands located should be reserved from sale until Congress should act upon them. The locating agent, it appears, under these renewed instructions, proceeded to make numerous additional locations. All the locations made under the instructions of the 13th of October, 1834, and of the 11th of March, 1835, and which it is estimated amount to 615,686 acres, with the evidence upon which they are founded, are now submitted to Congress, and the question is, shall the whole or any part of them be confirmed?

If the committee were satisfied of the justice of these claims they would

hesitate to recommend their confirmation without further investigation, under all the circumstances attending them. The great number of them has caused general surprise, and created a strong suspicion in the public mind that they cannot be well founded. But a deeper feeling has been excited in the State of Mississippi, by the interferences with the rights and expectations of the settlers, which a confirmation of these locations would produce, and this consideration of individual interest, with the spirit of patriotism which revolts at the idea of a fraud so gross as the allowance of these claims would be, in the opinion of many, has excited a ferment and dissatisfaction of a nature so intense that it would be proper to institute a more rigid scrutiny into the origin and justice of these claims, for the sake of giving satisfaction to a community so large and respectable, if no other reason could be shown for such a course.

The committee therefore have not been disposed, if it had been practicable, to investigate the evidence upon which each of these claims is founded, with a view to their immediate rejection or confirmation; they have proceeded in their examination rather with a view to ascertain if there existed any facts or circumstances of so conclusive a nature as to stamp them manifestly with the character of fraud and injustice, and to justify their immediate rejection without further expense to the Government, and without further suspense to all the parties concerned, on the one hand; or whether, on the other hand, there existed such plausible grounds of belief that "these claims, or a great portion of them, are founded in right and justice," as to authorize the delay and expenditure necessarily incident to the establishment of any tribunal necessary and competent to make a thorough investigation into their merits. But there are other reasons which have appeared to the committee of sufficient weight to justify this course. As the evidence upon which these claims are founded is almost exclusively oral and personal, and therefore deriving its chief weight and importance from the circumstances of the character and disinterestedness of witnesses, whatever plausibility may be given to any application from the statements and number of the witnesses, whether white men or Indians, the committee would feel far less competent to decide upon such evidence when presented to them only on paper, than they would were the witnesses brought before them, and all those facilities for ascertaining character afforded them, which would exist in the country or districts in which the claims originated. The remaining arguments and facts submitted in this report, will therefore be intended to sustain and justify the recommendation of a course conformable to these views.

The committee will first inquire whether there are any facts or circumstances in the origin of these claims, and the evidence by which they are attempted to be supported, to justify their immediate rejection. The circumstances which appear to have had the greatest effect upon the public mind against their validity, are *first*, the fact that the claimants were not registered within six months after the ratification of the treaty; *second*, the great numbers of them; *third*, the late period at which they have been brought forward; *fourth*, the circumstance, which is quite notorious, that a few active and sagacious white men have been instrumental in causing these claims to be presented, that they have acted as the agents of the Indians in all or nearly all the cases, and that they are known to have existing contracts with the Indians, for one-half the lands secured by them; and *lastly*, that a great number of Indians who emigrated to the west of



the Mississippi, have been prevailed upon to return to the ceded country, and set up claims to reservations under this article of the treaty.

1. The committee are of opinion that but little attention is due to the first general objection to the validity of these claims. The proof is clear and conclusive, that the late Choctaw agent, Col. Ward, at the time it was made his duty to receive the declarations, and keep a register of the names of the heads of such families as desired to become citizens of the State, and to take reservations under the 14th article of the treaty, was incompetent to the accurate and proper discharge of his duty. He was often capricious and arbitrary in his conduct in receiving declarations. In some instances he appears to have refused to place the names of Indians upon his register, because they did not make their applications at the agency where his office was usually kept; at other times he appears to have given certificates of declarations made at other places. In the instance of an entire band or company of applicants, the proof is very strong and satisfactory, that he declined registering their names, when their names and objects were stated to him symbolically, by bundles of sticks, according to the Indian custom: he is proved on that occasion to have taken their sticks into his hand and thrown them away, saying that there were too many of them, and they must go west. There are many circumstances stated in the proof before the committee, which show that all the agents in the employment of the Government in carrying this treaty with the Choctaws into execution discouraged all applications for reservations under the 14th article, and Colonel Ward is stated to have advised the removing agents to threaten them with punishment if they did not emigrate. The following extract of a letter written by Colonel Ward to the War Department, on the 21st day of June, 1831, is full and decisive as to the credit that is due to the register transmitted to the Department, so far as it purports to contain the names of all the heads of families who signified their intention to take reservations under this article of the treaty; and it also affords a strong presumption that a considerable number of heads of families besides those whose names appear upon the register, may justly claim reservations under this article of the treaty: "I will observe that there are many more who wish to stay five years than had been expected. There were upwards of two hundred persons, from one section of country, applied a few days since, at a great council held near this place: I put them off, as I did believe they were advised to that course by designing men, who were always opposed to the treaty; and this I trust is the last effort they will be able to make to thwart the views of Government." But there are still further proofs that but little credit can attach to the register kept by Colonel Ward of the applicants for reservations under the 14th article, as evidence of the whole number entitled. The time prescribed by the treaty within which any head of a family could bring himself within the provisions of that article expired on the 24th day of August, 1831, and it was then the duty of the agent to have forwarded the register, or a copy of it, to the Department of War, agreeably to his instructions. He does not appear to have transmitted it until sometime in 1832, and after repeated applications from the Department. The register then transmitted to the Department contained only sixty-nine heads of families. The certified list, afterwards furnished by Colonel Ward to the locating agent, contains the names of persons not found on the register in the Department of War, and the other list, furnished the locating agent at the same time, though not certified by

Colonel Ward, contains the names of some twenty persons who are not upon either of the other lists. Upon this point the following extracts from the examination of Colonel Ward before a committee of the Legislature of Mississippi is important:

"Question 3. Did you refuse to register the application of any Indian claiming, under said treaty, when that application was made according to the treaty?"

"Answer. I did not; I only refused to register such applications as these, viz: When one Indian applied for many; when one Indian proposed to apply for many I refused to permit him to do so; but when I thus refused I told such Indian that each one must apply for himself; and when they did thus apply in their own proper persons I always permitted them to register. I bought a book in which I registered all applications, which I sent up to the War Office."

"Question 4. Did you lose any part of the register?"

"Answer. I think one leaf of the memorandum paper was lost in taking it round by M. Markee. This memorandum paper was not the regular register, but only a sheet of paper folded up, which was loose, and which was made at the trading house, and which I made only for the accommodation of these men, and I did not consider myself bound to register any application which was not made at my office at the agency; and these names (which were between three and six only in number) which I suppose were lost, were not made at my office at the Choctaw agency. These Indians, from three to six in number, I thought might be entitled to claim, and I gave a certificate to Dr. John H. Hand that such was my belief."

It is not undeserving of note, as a circumstance showing how little reliance is to be placed upon the official acts of the late Choctaw agent, that the register transmitted to the Department of War is not a bound book, but merely a few sheets of common letter paper slightly fastened together. Here we also find an admission by the agent that he did not consider himself bound to register any application not made to him at the agency, and also that he refused to register the names of any applicants except such as made their applications in person. The treaty prescribes the conditions upon which the head of any Choctaw family should be entitled to a reservation under the 14th article.

The *first* is that he should signify to the agent his intention to remain and become a citizen of the State within six months from the ratification of the treaty. There is no stipulation that this intention shall be signified to the agent at any particular place, or in any other particular form or manner; nor is there any stipulation that any record or register shall be kept of the fact that such intention was signified or made known to the agent; or that the Indians who might think proper to take reservations under this article of the treaty were to be subject to any other terms or conditions besides those expressed in the treaty, whether prescribed by the Government or at the discretion of the agent. That an accurate register should be kept of all those who signified their intention to become citizens and take reservations, under this article of the treaty, was for the benefit of both parties to the treaty. It would have saved the Indian claimants under this article of the treaty the trouble of making any further proof of this fact, as well as secured the Government against the frauds of artful persons; but the fact that the name of an Indian claiming a reservation under this article of the treaty is not to be found upon the register kept by the

agent, would, under no circumstances, be conclusive against the right of the claimant, and under the actual circumstances of the case it does not appear to afford even a plausible presumption against the right of any claimant. If the treaty had stipulated that a register should be kept of all those who might declare their intention to take reservations under this article, and the agent of the Government had neglected his duty, or kept a false register, the Indians ought not to lose their reservations on that account. It also seems to the committee that an Indian head of a family might signify his intention to the agent to remain and become a citizen of the State, and take a reservation under the 14th article of the treaty, as well by letter addressed to the agent of the Government, or by his captain, headman, or other customary agent, as in person; and that such intention, signified to the agent at any place and in any manner, whether by signs, symbols, or in the Indian language, or by written characters of any description, provided they were intelligible to the agent, would have been a compliance with this provision of the 14th article of the treaty.

2. As to the argument that the number of these claims affords a presumption that they are fraudulent, the committee are of opinion that this presumption is not so conclusive as to justify the rejection of the claims without further inquiry, and they found the view they have taken of this objection upon the following facts and calculations. The census of the Choctaws, taken by the late Major F. W. Armstrong, who was in every respect a most faithful agent of the Government, soon after the ratification of the treaty, exhibits a population of 19,554 souls. From the nature of the country, the character of the people, and the detached and wild districts and settlements in which the Indians resided, it cannot be supposed that this census was entirely full and accurate. The presumption is, that there were several hundreds, to say the least, who were not found by Major Armstrong. But the number of those who emigrated to the west of the Mississippi could be ascertained with greater certainty, as they went under the guidance of the agents of the Government, and were subsisted by it. By the report of Major Armstrong, it appears that the whole number of those who crossed the Mississippi, were 15,000, leaving a balance of 4,554 still east of the Mississippi, and in the country ceded by the treaty of Dancing Rabbit creek. Taking the census of Major Armstrong as the basis of the calculation: in computing the number of families in a population of 4,554 Indians, to allow six souls to a family, would be a fair estimate among savages, and this would give 759 as the number of heads of families yet residing east of the Mississippi. Computing the number of families upon the supposition that each family, upon an average, consists of seven souls, which would probably exceed the true proportion among any uncivilized race, the number of heads of families yet in the ceded territory, will be 650. The number of locations made by the locating agent, under the 14th article of the treaty, for those heads of families whose names are to be found upon the register kept by Colonel Ward and others, who produced his certificates of registration, is 52. The whole number of conditional locations made by Colonel Martin appears, by the evidence before the committee, to be 520, making, together, 572 heads of families claiming reservations under the fourteenth article. It is true that a proportion of the Indian families which now reside east of the Mississippi, were provided for by special reservations in said treaty; but the number is not sufficient to weaken materially the view presented of the probable number of heads of families yet residing east of the Mississippi.



This calculation is presented as by no means conclusive that there are as many heads of families as is above estimated; who may justly claim reservations under the fourteenth article. It must be borne in mind, that there are other prerequisites besides being the head of a family required by the provisions of the fourteenth article, before the claimant can be allowed a reservation. In further corroboration of this view of the subject, the statement of Colonel Ward, already quoted, that at a council held by the Indians of a single section of the Choctaw country, in his neighborhood, there were 200 heads of families who determined to make application for reservations under the fourteenth article; may be adverted to.

3. The late period at which the greater number of these claims has been presented, may, in the opinion of the committee, be sufficiently accounted for from the facts and circumstances already set forth in this report, and a few others, which will be here noticed. The very short time allowed for the adjustment of these claims before the commencement of the public sales of the ceded country, in the fall of 1833, and the discouragements and denial with which all applications were met by the locating agent at that time, not founded upon the registration of the names of the applicants, probably caused many others to forbear to press their claims. It is in proof that an entire band, or company of heads of families, who applied for reservations under the fourteenth article, in the fall of 1833, alleging that their names had been registered by Colonel Ward, when they were informed by the locating agent that their names did not appear upon his register, and that they would not be allowed reservations, actually despaired of that object, and most of them, in consequence of their disappointment, removed west of the Mississippi. It may also be stated under this head, that the surveys were not completed in many small districts of the ceded country in 1833, and of course the Indians were not interrupted in their possessions by purchasers, nor made to feel the necessity of securing their lands until the year following. The first notice which the Indians had that those whose names were not upon the register would be permitted to make proof of their title to reservations, and have them located conditionally, was on the 12th of November, 1834, when the locating agent received the instructions of the 13th of October.

4. The objection to these claims which has grown out of the fact, that white men, and principally known speculators in the public lands, have been the agents of the Indians in arranging and bringing forward the proofs of the title to reservations, and that they are understood to have stipulated for the enormous compensation of one half the lands which may be secured by their exertions, while it increases the probability that frauds have been practiced in the case of numerous individuals where the temptation was so great, and the cupidity of the agents so absorbing, yet it affords no decisive presumption that a large proportion of these claims are not well founded. Most of the Indians are grossly ignorant; and having once despaired of their claims, it is very probable that but few of them possessed the intelligence and energy to have asserted them if they had not been prompted and assisted by the interested activity of white men. Nor ought the interference of these white men, or their lucrative expectations, to prejudice any claim which is otherwise well supported. It is the duty of Government, while it does justice to the Indians, in allowing them reservations in all cases when they can bring themselves clearly within the provisions of the 14th article, to provide also that they shall not become the victims of their

own improvidence, as far as the Government has the power to shield them. And at all events, all contracts entered into before the title is perfected by patent should be regarded as wholly void.

5. As to the last objection, that Indians have returned from the west of the Mississippi, and set up claims to reservations, the committee cannot find, from any evidence, that any such cases exist, except in the general assertion of the fact in some of the memorials and remonstrances of the citizens of the State of Mississippi, which has been referred to them.

The committee, after a full and careful consideration of the subject, are unanimous in the opinion that the most safe and satisfactory plan which can be adopted for the examination and adjustment of those claims, will be to institute a commission to take the evidence for and against them, in the several land districts in which they originated. It would afford a high degree of security to the public against imposition and fraud in the examination and decision of those claims, if William Armstrong, who assisted in taking the census of the Choctaws in 1831, who is now the Choctaw agent, west of the Mississippi, and who possesses a high character for firmness and fidelity, should be a member of the commission; and that the other members of the commission should be selected from sections or States disconnected, as much as possible, with the interests and excitements which have arisen out of those claims. The committee are also decidedly of opinion that the decision of the commissioners should be final, and recommend that such compensation be allowed as may enable the Executive to secure the services of those whose talents and character for integrity shall afford a satisfactory guaranty of the fidelity with which they shall discharge their duty. Experience has demonstrated that, whenever the responsibility of deciding upon a mass of claims of this nature may, in any event, be devolved upon Congress, it will be done; and there are so many thousand claims for reservations already waiting the action of the Executive, under various Indian treaties, that the committee think it would be improper, and requiring what could not be reasonably performed, to provide that the President should review the proceedings of the commission which it is proposed to establish.

The committee have had some difficulty in laying down the principles and in agreeing upon the details of the relief which should be granted in those cases, in which the lands reserved by the treaty have been sold, and are now in the possession of purchasers under the Government. These purchasers have, in many instances, made valuable improvements, and to deprive them of these possessions would be unjust, and productive of great discontent. On the other hand, the committee fully recognise the right of the Indian to the land which he can show he was in the possession of at the date of the treaty, and upon which he continued to reside until he was deprived of it by the purchaser under the Government. That the rights and interests of both parties may be protected and secured as far as possible, without doing absolute injustice to them, the committee recommend that, in all such cases, the Government should offer to pay the Indian claimant for his reservation in money, at the rate of one dollar and twenty-five cents per acre; and if that should not be satisfactory, that other lands of equal value shall be sold, so as not to interfere with the rights of others. To protect the Indians against improvident contracts, the committee recommend, in this class of cases, that the title to be made to the Indian, should be so qualified as to prevent any sale or alienation, except at public auction.

*Testimony of Colonel G. W. Martin.*

APRIL 18, 1836.

Col. George W. Martin, being duly sworn, answers to the following interrogatories:

Interrogatory 1. State what directions you received from the War Department relative to the location of Indian reservations under the 14th article of the Choctaw treaty of Dancing Rabbit creek, and your proceedings under the same?

Answer. The instructions I received from the War Department relative to the location of Indian reservations under the 14th article of the treaty, are contained in papers marked A, B, and C. A summary statement of my proceedings under these instructions will be found in papers marked D, E, and F. My first notice was the paper, G No. 1, followed by notices Nos. 2, 3, and 4. The publication of notice No. 2 was continued in one of the public newspapers for several months from its date. No. 3 was also published in the public newspapers, and No. 4 I caused to be posted at the public land offices and other places.

2. What number of heads of families were returned by Colonel Ward to the War Department, as having given the notice required by the treaty to entitle them to reservations?

Answer. The answer to this will be found in document No. 266 of the Senate documents, pages 186, '7, marked H, from which it appears that the number returned by Colonel Ward is 69 heads of families.

3. What number appears on his register to have given such notice who were not returned by him?

Answer. On the certified list handed me by Colonel Ward, there are three names which are not on the list returned to the Department. On the uncertified list which I received from Colonel Ward at the same time, there are 20 names not to be found on either the certified list handed to me or on the list returned to the Department. This uncertified list, however, wants a number of names which are on both the certified lists:

4. State when you came into possession of said register, and its present condition, and whether it is in the same condition now as when you received it?

Answer. I received the register from Colonel Ward on the 11th of September, 1833. It contained two lists of claimants under the 14th article of the treaty, one of which was certified by him. The uncertified list contained twenty names which were not on the certified list, and the certified list contained twenty-three names which were not on the uncertified list. The other names, about 50 in number, were the same on both lists. The names and numbers of their children also varied. These lists were each of them written on a sheet of letter paper, and fastened in the back part of the register of claimants under the other articles of the treaty. It is here produced in the same condition as when I received it. For a corroboration of this statement, I refer to two letters of Colonel Armstrong, marked I and J.

5. What information did Colonel Ward give relating to said register, and what communication did you make to the War Department in consequence thereof?

Answer. Colonel Ward stated that he had sent the original register to the War Department. The lists referred to in the last interrogatory, marked K, No. 1 and 2, furnished to me by Colonel Ward, I understood from him

were imperfect, and that he would not vouch for their correctness, and had taken no particular care of them. I got the impression that a part of the register had been lost; but whether Colonel Ward stated it specifically or not, I am unable to say. I think I received the impression from Colonel Ward and Armstrong. I refer to Colonel Armstrong's letters alluded to in the last answer.

6. Do you know to what extent the Indian claimants have interested white persons in obtaining reservations for them?

Answer. I did not consider it as a part of my official duty, in receiving evidence of these reservations, to inquire into the nature or extent of the interest which the agents for the Indians had in securing them, by contract with the Indians. I never saw any contract of the kind; but it is the general reputation of the country, that the agents were to get one-half the lands which might be secured. I have heard this fact stated in the presence of some of the agents, and it was not denied.

7. What number of heads of families, whose names were not on the register, have presented Colonel Ward's certificates of notice?

Answer. In order to give an intelligible answer to this question, it is necessary to remark, that there are three different lists of claimants under the 14th article made out by Colonel Ward, one of which was certified and returned to the War Office, and two were handed to me, one of which was also certified. These lists contain generally the same names, although there are a few names upon each which are not on either of the others. The following are the names of all who presented to me Col. Ward's certificates, and whose names are not on the list returned to the War Office, viz:

William and Judy Turnbull	-	-	-	on neither list,
William Simmons	-	-	-	do.
James Oxberry	-	-	-	do.
John Homer	-	-	-	do.
Benjamin W. Garvin	-	-	-	do.
Mary Johnson	-	-	-	do.

Sampson Montcrief, on certified list handed to me, and on no other.

Betsy Buckels, on uncertified list do. do.

William Thompson, went west, no land required.

8. What number have claimed locations whose names were not on said register, or who did not produce certificates?

Answer. There are 520 heads of families who have claimed locations who did not produce certificates; and none of whose names will, I think, be found on either of Col. Ward's lists.

9. What is the probable number of the Choctaws who have remained on this side the Mississippi since said treaty?

Answer. From the testimony which has been presented to me, in connection with other sources of information, I am induced to believe that the number of Choctaws who have remained on this side the Mississippi since the treaty, does not vary materially from 3,500, the number set down in a condensed report of Indian removals, in Doc. No. 2, of House of Representatives, 1st sess. 24th Congress, page 296, as the number of Choctaws east of the Mississippi. This number is ascertained by subtracting the whole number of emigrants, after the completion of the removal, from the number of the population taken before the removal. My own observations of these people while travelling through the country, the information I have derived from others, and the testimony produced before me in my

official capacity, induce me to believe, that the number of Choctaws who have remained and are still living in the district of country ceded by the late treaty, is at least equal to that above stated.

10. What is the average number of Choctaws to the head of a family?

Answer. Taking the families for whom locations have been made as the basis of a calculation, the number of Choctaws to each head of a family would be about four: I think it a fair estimate to adopt that number.

11. What number of the locations you have made, have been made to include the original improvements of the claimants at the date of the treaty?

Answer. I think that all the claimants whose names are upon Colonel Ward's lists, and all who produced certificates, except William Simmons, have been located upon the places they occupied at the time of the treaty. The improvements of Simmons, and most of those for whom lands were reserved under the instructions from the Department, were, according to the testimony adduced, sold by Government previous to their applications, and other lands were reserved from sale.

12. Under whose agency was the testimony in behalf of the claimants taken?

Answer. The testimony in behalf of the claimants was presented by a number of different persons acting as the agents of the Indians, most of whose names were set down, under the head of general remarks upon my register of locations, opposite the names of the claimants, as will appear by a reference to the copy of said register before the committee. In many instances, these agents were accompanied by the claimants, or some of their captains or headmen, who were examined by me personally.

13. State the names of all the white persons who you know, or have reason to believe, are interested in procuring such reservations, and your means of such knowledge.

Answer. With respect to the interest which white persons have in procuring reservations, I know very little. The applications for locations under the different articles of the treaty have generally, and I suppose in most cases necessarily, been made by white men, sometimes accompanied by the claimants, and sometimes by producing powers of attorney from the claimants. I have always endeavored to satisfy myself that the persons acting for the Indians were duly authorized by them, but have never inquired how far they were interested in procuring reservations, or whether they were employed as agents, or were parties concerned. I do not recollect of ever having seen any contract between a white man and an Indian claiming under the 14th article; but I am induced to believe that such contracts do exist, by which white men are interested in the claims of the Indians. My belief is, however, founded more upon general rumor, and the conduct of these men in the troublesome and expensive management of this business, than upon any declarations I have ever heard them make. I state the names of the following persons who have appeared before me as the agents of the Indians, and who I am compelled, for the reasons just stated, to believe have some interest in these claims, viz: F. E. Plummer, Wiley Davis, A. A. Halsey, James A. Girault, John B. Davis, E. Loyd, Richard Barry, James Brown, Charles Fisher, John Johnston, sen. D. W. Portis, G. D. Boyd, ——— Bates, Thomas J. Crawford, John D. Boyd, J. Whitsett, William M. Gwin, S. B. Marsh, and E. Williams.



14. Have you now, or have you had, any interest directly or indirectly in any claim for any reservation under the 14th article?

Answer. In the month of September, 1832, eleven months before my appointment as locating agent, I became interested in the claim of James Oxberry, a Choctaw, claiming under the 14th article, who had the agent's certificate of registration. My contract was a conditional one, dependent upon Oxberry's ability to perfect his claim. This is the only claim under the 14th article in which I have ever had an interest directly or indirectly; and I have never obtained or received, either directly or indirectly, any interest in any claim under any article of the treaty since my appointment as locating agent, except a small interest in the special reservation granted to John Donly, obtained some time after its location.

15. Do you know whether any Choctaws have returned since their emigration west of the Mississippi; and, if so, whether any attempts have been made by them to procure reservations in violation of the treaty?

Answer. I know certainly of but one head of a family, Captain Anthony Turnbull, who has returned; and his claim being a local reservation was disposed of before his first removal. His brother, Robert Turnbull, made a visit to the west at his own expense, but not having removed his negroes, soon returned, and is one of the claimants under the 14th article. I have seen a man named Nelson, who has recently returned from the west, but he has not since his return presented any claim for land. This man was one of a company of about eighty heads of families who said that they were registered by Colonel Ward under the 14th article of the treaty, and applied to me soon after my appointment for reservations. Not finding their names upon Colonel Ward's lists, I informed them that they could not obtain lands, advised them to go west, and notified Colonel Armstrong, the removing agent, of their situation. The most of these people were accordingly taken west the last year of the removal, and I have never heard that any of them have returned, except Nelson just named. I was also informed by General S. Cocke, in the month of October, 1835, and previous to the last sales at Columbus, that a man named Durant, who had procured a location under the 14th article, had emigrated and returned from the west; and, in consequence of this information, I notified said Cocke to produce the evidence of the fact before me at Columbus on the 1st day of November following, and gave him a notice addressed to Durant to appear at the same time and place, (which notice the said Cocke undertook to serve,) that the claim of said Durant might be fully investigated, and, if found fraudulent, that the location granted might be raised and the claim rejected. No such evidence having been presented, the location remained as previously made. These are the only persons of whom I have any information respecting their return from the west. I have always made it a point of inquiry, upon the presentation of claims under the 14th article, whether the claimant had always, since the treaty, remained and continued to live in the country ceded. I did not consider myself authorized to reserve lands under the 14th article for any who had ever removed west.

16. Have any of the emigrants to the west of the Mississippi attempted to procure reservations by agents, since their emigration, in violation of the treaty?

Answer. No emigrant to the west of the Mississippi has ever attempted in person, or by an agent, to procure reservations at all under the 14th article, since their emigration, nor under any other article in violation of the treaty.

17. Do you know of the existence of any contracts between the Indians and the persons who acted as their agents; by which the agents are to have the remainder or other half of the land, at \$1 25 per acre, or at any other price?

Answer. I do not know of any such contracts.

18. State how many reservations you have located for claimants under the 19th article of the treaty?

State also what number of reservations you have located for claimants under the 14th article, whose locations are considered final?

State also what number of reservations you have located under the 14th article, which are considered conditional, and subject to the confirmation of Congress, since your appointment as locating agent?

State also what number of special reservations you have located under the Choctaw treaty?

State also whether you know of any grant of a reservation made by the treaty which has not been located,—and state the names of the reservee or reservees?

Answer. I have located 343 reservations for claimants under the 19th article of the treaty, as appears from my returns to the War Office; 52 reservations under the 14th article, which are considered final; 520 under the 14th article, which are conditional, and 58 special reservations. The number of reservees, under the 19th article of the treaty, exclusive of those specially named in the 1st section, is limited to 1,600. It appears, however, from Col. Armstrong's return, that only about 739 reservations, including the special ones, were allowed under this article. Of this number, 288 were relinquished to Government, leaving 451 to be located, of which 343 have been located, leaving 108 yet unlocated. The whole number of claims in the supplement is 77, of which 60 have been located, leaving 17 unlocated. The whole number of claims therefore, under the 19th article, and the supplement of the treaty, still remaining unlocated, are about 125. The names of the reservees yet unprovided for, who claim under the 19th article, except those who are specially named in the 1st section, cannot, without an examination, which would require a great deal of time and labor, be given. I am enabled, however, by a reference to documents in the War Office, to give the names of most of the reservees, under the 19th article specially named, as well as those named in the supplement, whose claims have not yet been located. They are as follows, viz: J. Garland, Ho-ho-ke-be-tub-bee, and Eay-cha-ho-bia, under the 19th article; and the following named in the supplement of the treaty, to wit: Allan Gates and wife, G. Nelson, J. Vaughn, Choç-le-ho-ma, Susan Colbert, D. McCurtain, Oak-la-ho-ma, Polly Fil-le-cu they, Henry Groves, James D. Hamilton, W. Juzan, Tobias Leflore, Jo. Doke. Chief Nutackachie, provided for under the 15th article, is also unlocated.

19. You have stated you received your appointment of locating agent on the 5th of August, 1833, and procured Col. Ward's lists of names under the 14th article on the 11th of September, 1833; state at what time you commenced the location of claims under the 14th article,—what plan you adopted to give notice to the Indians of your authority to locate their reservations,—at what time the land sales took place,—whether you have reason to believe that the Indians generally received the notice of your appointment as locating agent, in time to apply for a location of their lands,

before the same was offered at public sale,—and whether any portion of the Indians, for whom you have made conditional locations, applied to you and claimed reservations, under the 14th article of the treaty, before the sales, or within any short time thereafter—and if so, state what number applied as near as you can.

Answer. As soon as possible, after obtaining Col. Ward's lists of claimants under the 14th article, on the 11th of September, 1833, I commenced receiving applications for locations under the 14th article of the treaty, as well as the other articles, and immediately caused 200 copies of the notice marked G. No. 1, to be printed, and to be distributed as speedily as possible throughout the Choctaw country. A few copies of this notice were sent to each land office. The land sales commenced on the 21st day of October, 1833, and I am inclined to believe that most of the intelligent Choctaws had received the notice of my appointment in time to apply for their locations before the commencement of the sales. Whether this notice was sufficiently understood by the more ignorant people, in parts of the country remote from the land offices, I am unable to say. Among the first applications under the 14th article, were those of Charles Frazier, Joseph Perry, Rachel Davis, Coleman Cole, Moses Perry, Moontubbe, for himself and others, Samuel McGee, We-shoc-she-homa, with several of his men, for himself and his company, together with a number of others not now recollected. We-shoc-she-homa, at the time of his application, informed me that Captains Cobb and Pickens, with their respective companies, were claimants under the same article. I was also informed about the same time, from other sources, that Little Leader and Post-Oak, with their companies, were also claimants under this article. The applications above mentioned were all made previous to, and during the first sales of the Choctaw lands, commencing as above stated. The applicants insisted before me, that they had been registered by Col. Ward under the 14th article of the treaty; but finding none of their names upon Col. Ward's lists, except the two names of Captains Cobb and Pickens, I informed them that I could reserve no land for any of them, except the said Cobb and Pickens. During the same time, Garret E. Nelson presented to me a list containing about eighty names, which he said were the names of Choctaw heads of families who been registered by Col. Ward upon the application of said Nelson, as a friend and agent of said Indians, with a view, as I understood, of ascertaining whether I would reserve lands for them. Upon examining this paper, and comparing it with Colonel Ward's lists, I discovered that not one name upon the list presented by Nelson was to be found upon Col. Ward's list. I therefore told him that none of the persons whose names he had produced, could get land, and advised them, as I have stated in my answer to a former interrogatory, to go west, which most of them accordingly did. With respect to many of these applicants, I was satisfied by testimony which they produced that they had been duly registered, but taking Col. Ward's lists as my guide, I could take no further notice of their applications than to inform the Department of their complaints, and request that a register of the 14th article claimants, which I had not yet received from the War Office, should be forwarded to me immediately, as will be perceived by a reference to my letter of 8th November, 1833, marked L.

The intelligence with respect to the number of names upon Col. Ward's lists, copies of which lists were furnished to the different land offices, and

my course in relation to locations under the 14th article, was circulated through the country, and I do not recollect that any more applications under the 14th article, except by those whose names were on Col. Ward's lists, were made until after the receipt of the instructions from the Department of October 13, 1834, directing conditional reservations. It is probable that the claimants for locations under this article, had desisted from making any further applications to me, on account of the failure of those who applied, and the reports which were circulated in consequence.

20. Do you know whether the Indians mentioned on your list of conditional locations, asserted claims to reservations under the 14th article, from the date of the treaty, and if so, why their locations were not made before 1835?

Answer. I did not commence my residence in the Choctaw country until about two years after the treaty, and of course am not from my own knowledge able to say whether the Indians mentioned in the list of conditional locations, asserted their claims from the date of the treaty or not. From the time, however, that my official duties brought me in contact with these Indians I have always understood that the facts were notorious in certain neighborhoods, that the Indians residing in those districts, and who are included in the number of those in the list of conditional locations, endeavored, upon the execution of the treaty to avail themselves of the benefits of the 14th article, and had uniformly ever since asserted their claims to land under that article. In answering the latter part of this interrogatory, "why these Indians did not apply for locations before 1835?" I must refer to the answer of the preceding interrogatory, which accounts for their not *procuring* locations before the receipt of the instructions of October 13, 1834. These instructions were received by me the 12th November, 1834, and I gave notice to those interested by posting at Chocchuma, and notifying the Registers at the other offices to do the same as soon practicable. See my letter marked M. The applications were commenced and continued from that time onward through 1835, and in all applications for other lands than those occupied at the time of the treaty, I required evidence of the sale by Government of the original improvements. The reason why most of the applications were not made before 1835, I presume may be, that the Indians did not become acquainted with the purport of the above notice in time to have the lands they claimed reserved before the sale which commenced December 8, 1834, nor, considering the time it would necessarily take to circulate intelligence through an extensive and wilderness country, 350 miles long and 150 miles wide, so as to convey it to the understanding of an ignorant and scattered population, and the additional time which would be required to prepare the necessary testimony to sustain their applications, and have the lands reserved at five different land offices, could it be expected that these applications should have been made for some time after the sales.

21. Have you in any instance refused the application of any Indian to locate land for him? and if so, state the number refused as near as you can.

Answer. In answering this question I must again refer to the answer of a previous interrogatory. The rule upon which I acted previous to the instructions of October 13, 1834, was to reject the application of every claimant whose name was not to be found upon Col. Armstrong's register furnished to me by the Department, or upon the certified lists of Colonel

Ward and his certificates of claimants under the 14th article. As to the number of applications refused I cannot from my recollection speak with certainty: under the 19th article, very few applied whose names were not on the register. The applications rejected under the 14th article, have been spoken of in a previous answer.

21. Are there now remaining in the country ceded by the treaty of Dancing Rabbit, any Indians who claim reservations under any provision of the treaty, who have not received a location, either conditionally or otherwise? and if there be any, state the probable number, and the article of the treaty under which they claimed.

Answer. I know of no Indians now remaining in the country ceded by the late treaty, who claim reservations under any other provision of the treaty except the 14th article; and how many there are of this class who have not received locations, I am unable to say; but from the testimony presented to me, and other sources of information, I am induced to think there are about two hundred heads of families, including those heads of families who have made application for reservations, but which were not allowed by me.

22. Were you acquainted with Colonel Ward during the years 1831, 1832, and 1833; and if so, what were his habits and qualifications for business?

Answer. My acquaintancè with Colonel Ward commenced in 1833, during which year I had occasion to call upon him twice only; I cannot, therefore, speak fully of his habits and qualifications for business from personal knowledge. From what I observed, however, of such of his official acts as came under my notice, and what I have learned from the testimony adduced to me, and the information of others, respecting his character and official conduct, I must believe that he was an extremely intemperate man, and, consequently, a very negligent officer. In corroboration of this opinion, I refer to the testimony of the following persons, viz: Gabriel Lincecum, Grant Lincecum, Adam James, Reuben Grant, and Jefferson Clements, John Whitsett, James Oxberry, and George S. Ganes, in papers marked N, Nos. 1, 2, 3, 4, 5, 6, and 7.

23. Who selected the locations you made: the agent of the claimants or yourself?

Answer. The agents or representatives of the Indians, in general, designated the land they wished to be reserved, in their written applications. In some cases, this was not done, and the locations are not made. I required proof of the quality of the lands sold, with a view to locate lands of equal value; but of the value of the lands located, I could not judge myself, except by referring to the field notes of the surveyor.

24. Were any persons whom you have named as agents for the Choctaw claimants, witnesses in support of any claims?

Answer. I have no recollection that any of those agents were witnesses except in some cases where certificates were given as to the credibility of other witnesses. But I cannot be positive without an examination of the evidence in the several cases.

25. Have any Chickasaw Indians claimed reservations, as Choctaws, under the 14th article of the Choctaw treaty?

Answer. Not to my knowledge.

26. Have you made any locations under said article to any Choctaw heads of families who had no improvements at the date of said treaty?



Answer. I made no locations in any case, unless I believed from the evidence that there was such an improvement as was required by the 14th article of the treaty.

27. Have you knowledge or reason to believe, that two or more reservations have been claimed by, or made to, the same Indian, under different names, under said article?

Answer. I have no knowledge, nor any reason to believe, that the same individual has procured more than one location under different names.

28. Have you, in any instance, changed locations, (under said article,) from the place where first laid, and placed them upon lands purchased by pre-emptors?

Answer. I have not.

29. Did Colonel Ward, at any time, state to you in what kind of book he made the original entry of the names of the Choctaw heads of families who gave notice under said 14th article? if so, state the same.

Answer. I do not know that he ever did. Colonel Ward stated that he had sent the official register to the War Department, and retained the one given to me as a copy for his own use.

30. Did said Ward state whether he had refused to enter applications not made by the applicant in person, or which was not made at the agency?

Answer. He made no such statement to me.

31. Do you know William and Henry Garvin? and if so, state their character.

Answer. I know both, but do not know enough of their character to speak of their truth and veracity.

32. Has any agent of any applicant for a reservation under said fourteenth article, or any other person on behalf of himself or such agent, or applicant, at any time directly or indirectly, proposed to give to you any money, or other thing of value, or any interest, present or future, in any of such reservations or in other lands, or any benefit or emolument whatever, to induce you to do, or forbear to do, any act in the execution, or under color of the execution, of your duty as locating agent under said fourteenth article? if so, state the same.

Answer. No such offer has ever been made to me by any person, either directly or indirectly.

33. Were the following persons, or any of them, witnesses in support of any of the claimants?

Benj. A. McKelven, John Carter, Daniel Green, Lewis Whitsett, J. Garrott, Hugh McDonald, Wm. Herbert, D. W. Wright, A. F. Young, D. H. Morgan, Lemuel U. (N.) Hatch, Rollin Williams, Henry L. Bennett, F. M. Tucker, Armstrong Hodge, Wm. Humphreys, Richard Evans, Briscoe Bennett, Samuel Garland, — Holsey.

Answer. I do not find, upon the examination of my papers, that any of the persons mentioned in this interrogatory were witnesses, except John Carter and Hugh McDonald, nor do I believe that any of the others were.

34. Were any of the persons whom you have named in the answer to the thirteenth interrogatory, as being agents of the Choctaw claimants, witnesses in support of any of the claims?

Answer. I recollect none, except Mr. Whitsett, who has certified to the credibility of one of the witnesses.

35. Did you appoint commissioners to meet at the house of Little Leader,

in 1835; and if so, what instructions did you give them, and what were the proceedings and report of said commissioners?

Answer. I did appoint such commissioners. My instructions to them are contained in the commission here produced, marked O. And the proceedings under it in the report of the said commissioners, marked P.

*Papers referred to by Colonel Martin.*

A.

DEPARTMENT OF WAR,  
June 26, 1833.

SIR: You are hereby appointed to make the selections of the location of the tracts of land granted to the Choctaws by the 14th, 15th, and 19th, articles of the treaty of September 27, 1830, concluded at Dancing Rabbit creek. Your compensation will be five dollars per day, to include services and expenses, while engaged in this duty. And you are authorized to employ an interpreter, if one attached to the agency cannot be detailed to attend you, and to allow him two dollars and a half per day, in full for his expenses and services. These claims will be paid upon accounts, certified by both yourself and the interpreter. The Department is informed that plats of the surveys of one hundred and twelve townships have been received at the General Land Office, and that the exterior lines of one hundred and seventy-six townships have been run, the sectioning of a majority of which is in progress. Copies of the plats received here will be forwarded for you from the Land Office, to the care of General Coffee. You will please to apprise the Department of your address, that copies of the other plats may be sent to you direct. Upon application to Colonel Ward, or William Armstrong, Esq. at the old agency, you will be furnished with copies of registers of the different classes of reservees in the three districts, and may obtain all the information you will require in the fulfilment of this duty. These registers are supposed to be complete, and you will be governed by them in the location and assignment of reservations in all cases, unless otherwise directed by this Department. The general provisions of the treaty are, that the reservations shall be bounded by sectional or quarter sectional lines of survey, and include the improvements of the reservees. An exception to this rule occurs in the 15th article, and in the first clause of the 19th, by which two of the four sections granted to the three chiefs and to Colonel Folsom, are to be located, "on unoccupied, unimproved lands." You will consult the wishes of these persons in locating these sections, taking care not to interfere with the possessory rights of any other Indian. The half sections and quarter sections allowed to heads of families, in the 14th article, for their children, will adjoin the location of the parents. The number of reservees provided for in the 3d and 4th clauses of the 19th article, is limited, and the extent of their respective reservations is proportioned to the number of acres in cultivation. You will learn from the register the names of the persons entitled to lands under the several classes. In locating the three quarter sections granted to those who shall have cultivated thirty acres or more, you will observe that the treaty provides they shall be "contiguous and adjoining." The reservations allowed

under these two clauses are also so to be located, as to include that part of the improvement which contains the dwelling house. If the contingency should happen contemplated in the latter part of the fourth clause, that the number of reservees should exceed the number stipulated for, you will call upon one or more of the chiefs of the district to which they belong, to decide who shall be excluded. For instance, one half section is granted to the cultivators of from twenty to thirty acres, the number not to exceed four hundred. If there should be four hundred and fifty claimants, the chiefs are to decide upon the fifty whose claims must be rejected. The 5th clause provides for the assignment to the captains whose cultivated possessions may entitle them, under the previous clauses, to less than a section, of an additional half section. This half section must adjoin the tract which includes their improvements and dwelling-house. The registers also will show you the names and number of the orphans entitled to reservations. If any of the Choctaws have no improvements, or if the location of a tract would include the improvements of more than one of them, in that case you must exercise a sound discretion respecting the person to whom such tract shall be assigned. It is desirable that the parties interested should decide for themselves, or agree to submit to the determination of their chief; but if they will not do either, perhaps the best method will be to draw lots in their presence. It is also desirable that the reservees of each district should be located together, and as near to each other as the preservation to each of them of his improvements will permit. You will establish such permanent marks upon each reservation, as will show its extent and boundaries. You will also open a new register, and enter upon it the names of the reservees, and the number of the sections, half sections, or quarter sections, as marked on the plats of survey assigned to them respectively: the originals of this register you will leave with the sub-agent, William Armstrong, Esq.; a copy you will forward to this Department. The Department relies upon your zeal and exertions to execute every part of your duty under these instructions, in a manner accordant with the obligations of the Government, and satisfactory to the Indians.

I enclose a copy of the treaty.

Very respectfully,

Your obedient servant,

JOHN ROBB,

*Acting Secretary of War.*

GEORGE W. MARTIN, Esq.

(Care of General Coffee,)

*Florence, Alabama.*

---

B.

DEPARTMENT OF WAR,  
October 13, 1834.

SIR: The applications that have from time to time been presented to this Department by persons claiming reservations under the 14th article of the Choctaw treaty, that the sale of the sections they claim may be suspended, have been submitted to the President, who has directed the following instructions to be communicated to you: In the cases that have been

brought to the notice of this Department, it has appeared from the evidence exhibited, that the names of the claimants were registered, and the record has been lost; or that the record was made on separate slips of paper that cannot now be found; or that they applied verbally, and were led by the agent, to believe that this was a compliance with the treaty; or that their application to be registered was refused without sufficient reason. There has also been evidence exhibited to show that the agent certified that persons "caused their names to be registered whose names are not upon the register returned by him." In this state of things, the President deems it to be his duty to modify the order that precluded you from locating sections for persons not upon this register, in order that the parties may have an opportunity to obtain the action of Congress upon their claims. You will, therefore, give public notice that persons who consider themselves entitled to reservations under the 14th article, and whose names are not upon the register of Col. Ward, will exhibit to you the evidence in support of their claims. This evidence must show that they were citizens of the Choctaw nation, heads of families, and did signify their intention to become citizens within the time prescribed by the treaty. It must also show the time of their application to be registered, and the conversation, and circumstances relating to it. If they bring themselves within the requisition of the 14th article, and the evidence of credible and intelligent witnesses induces you to believe that the omission of their names on the register, was caused by the mistake or neglect of the agent, you will make locations for them in the manner pointed out in the instructions heretofore given to you. These locations, it must be understood, are contingent, and will be complete only in the event of their being confirmed by Congress. If the whole or a part of any reservations that may be claimed have been sold, you will designate upon the plats tracts of equal dimensions, and of as nearly equal value as practicable. The Register and Receiver of the proper land offices will be instructed to reserve from sale the reservation you may locate under this order, until the views of Congress are ascertained. The President specially directs that you transmit, in season for the action of Congress at its next session, detailed reports, showing the names, standing, and credibility of the witnesses, and all the facts and circumstances in each case, with copies of the papers presented to you, and your communications to the land offices, upon this subject. The execution of these instructions will require your prompt and vigilant attention, that justice may be done to the Indians and the Government.

I am, sir,

Very respectfully,

Your obedient servant,

**MAHLON DICKERSON,**

*Acting Secretary of War.*

Col. GEO. W. MARTIN,  
*Columbus, Mississippi.*

C.

DEPARTMENT OF WAR, OFFICE INDIAN AFFAIRS,  
 March 11, 1835.

SIR: The reports of locations transmitted by you to this office in compliance with the instructions of the 13th October, 1834, were submitted to Congress by the President, but no definitive legislative action was had upon them. In the opinion of this Department, nothing more can be done until the next session. The locations you have made, and those you may make under the instructions above named, will be reported by you to the proper land offices and to this Department, and the lands will be reserved from sale until the decision of Congress is known. You are requested to inform the claimants of the course contemplated.

Very respectfully,

Your humble servant,

ELBERT HERRING.

Col. GEO. W. MARTIN,  
 Chocchuma, Mississippi.

D.

CHOCCHUMA, Mississippi, December 24, 1834.

SIR: As per my instructions from the War Department, of the 13th of October last, which came to hand on the 12th of November, I herewith transmit a list of claimants under the 14th article of the treaty at Dancing Rabbit creek, for the purpose that said claims and accompanying testimony may be laid before Congress. A register of the locations will be forwarded to the War Department, so soon as the lands are designated on the plats of survey, and a complete list can be procured and regularly made out; all of said claims have been *conditionally* reserved for the final action of Congress.

I have the honor to be,

Very respectfully,

Your obedient servant,

GEO. W. MARTIN.

The hon. LEWIS CASS, *Secretary of War.*

E.

CHOCCHUMA, Mississippi, December 29, 1834.

SIR: I have the honor, in addition to the list of claims transmitted on the 24th instant, to the War Department, herewith to forward the following testimony, in support of a number of Indian claimants therein embraced. These Indians claim to be entitled to lands under the 14th article of the treaty, having, as they allege, fully complied, on their part, with all its requisitions; notwithstanding their names do not appear on the agent's books. The 14th article provides that each Choctaw head of a family, being desirous to remain and become a citizen, shall be permitted



to do so, by signifying his intention to the agent within six months from the ratification of the treaty, and thereupon shall be entitled to receive certain allowances of land, in manner as set forth in the treaty. These claimants allege that they did so signify their intentions, as required by the treaty; and say if their names do not appear on the agent's book, it is no fault of theirs, and consequently they ought not to be deprived of their just rights; by the neglect or default of the agent, or any body else, over whom they had no control. This being the nature of the claims set up by them, I have, in each case presented; inquired, *first*, "is this a case coming under the 14th article?" and next, "is there (in the language of the President's letter,) probable evidence of credible witnesses, of their rights under the provisions of said article; and that their failure to obtain such reservations has been caused by the mistakes or neglect of the agent pointed to make a list of reservees?" Wherever it has been satisfactorily proved to me by indisputable testimony, that the claims under the 14th article, and that the failure to have their names registered was not their fault, but arose from the neglect, or mistakes of the agent, or other cause not embraced in the treaty, I have *located* their lands, and directed the Register to withhold them from sale, conditionally. The letter of the President directs, "that, in all cases, the locating agent will make special reports of the names of the witnesses, and of the facts and circumstances submitted to the War Department."

In obedience to these instructions, I have caused all the testimony offered to be taken in writing, under oath, and in due form of law. A list of the names of the witnesses is annexed to this report, and copies of the depositions themselves are herewith transmitted, the originals being retained for the use of this office. The instructions require that I should report the facts and circumstances submitted to me. By a reference to the papers, it will be seen that the depositions establish the following facts, viz: 1st. That within the time limited by the treaty for registration, on one occasion a number of the Indians then living at Suckenatchie, and some of them living yet on the same, did actually go forward to the agent, then at the old factory, for this and other purposes, and did not only offer their names for registration, but their names were duly and formally entered down in a book opened for that purpose; nevertheless, few, if any, of the names then and at that place taken down, are now to be found in the agent's book in my possession. The conclusion is inevitable, that the small book or sheet of paper on which their names were entered, has been either lost by the agent, or destroyed by those who might possibly wish the Indians to emigrate. It appears that a portion of these Indians have since gone away, while others remain on their lands, and now contend for their claims. 2d. That there are instances where individuals went forward and had their names entered down on the book, and yet they were afterwards erased, or blotted out by (possibly) those who had free access to the agent's book. 3d. It further appears, from the testimony of several witnesses of unquestionable character, that in the month of June, 1831, a number of Indians attended at the council house, for the purpose of entering their names to become citizens and take lands. Being ignorant of the English language, they appointed one or two headmen, or leaders, to go forward for them, and give in their names accordingly. As is customary among the Indians, they collected a parcel of small sticks, designating the number of them that wished to register. With these sticks in their hands, the spokes-

man went up to the agent and gave them in, at the same time informing the agent, through the interpreter, that these sticks showed the number they came forward to give in, and that they would give the name of each head of families, the number and ages of their children. It appears further, that the agent took the sticks in his hand and threw them away, and directed the interpreter to tell the Indians that there were too many of them, and that they ought or must move over the Mississippi. Being thus repulsed or turned off, it appears that many of these Indians abandoned their claims and have gone west, while some of them yet remain, and now assert their claims, under the foregoing signification of their intention to remain.

I have &c.

GEO. W. MARTIN,  
*Locating Agent.*

HON. LEWIS CASS, *Secretary of War.*

---

F.

WASHINGTON CITY, April 5, 1836.

SIR: In compliance with an order from the Department, dated January 22, 1836, requiring me "to report, without delay, the proceedings which have taken place" in the location of claims under the 14th article of the late Choctaw treaty, and "the reasons that have governed me," as locating agent, in making conditional reservations of land to satisfy said claims, I have the honor to present the following history of my proceedings, with the documents upon which, in accordance with my instructions, they are founded. It will be necessary, for the purpose of giving a connected view of these proceedings, to commence with my first instructions as locating agent for the Choctaws, and trace from thence the course I have since pursued in relation to claims under the 14th article of the treaty. My first instructions, accompanying my appointment, bear date June 26, 1833, and were received by me the 5th day of August following. By these instructions, I was directed to apply to Colonel Ward, or William Armstrong, Esq. at the old agency, for copies of registers of the different classes "of reserves, and such other information as I might require in the fulfilment of my duties," and was advised "that copies of the plats of survey would be forwarded to me from the Land Office."

I immediately visited the agency, made the requisition directed, upon Colonel Ward and Mr. Armstrong, and was informed by them that perfect copies of the registers of reserves could not be furnished at that office, and I was advised by Mr. Armstrong to apply to the Department for such registers. The only document or information obtained at that time from the office of the old agency, relative to the claimants under the 14th article, was a register represented, both by Colonel Ward and Mr. Armstrong, as being mutilated and very imperfect, which contained two lists of claimants under the 14th article, having the general appearance of duplicates, with numerous discrepancies, and embracing together ninety-one names, one of which lists was certified. I then applied to the Department for a correct register, which was furnished complete as to all the classes of claimants, except those under the 14th article, which were not contained in it; and

no other register of these claimants has ever been received by me, except the imperfect one above alluded to, although, urged by the numerous complaints of claimants under this article, I frequently presented the subject to the Department. As the first public sale of Choctaw lands was to occur within less than two months after my obtaining from Colonel Ward the imperfect register above alluded to, and commenced three days after I received the one from the Department, not containing the claimants under the 14th article, I felt authorized to reserve lands for all of the last mentioned claimants, whose names were on the certified list obtained from Colonel Ward, as well as for some others whose names were not on said list, but who presented to me certificates from Colonel Ward of their registration. On the 12th of November, 1834, I received a communication from the Department, dated the 13th October preceding, instructing me "to make contingent locations for all such applicants under the 14th article of the treaty, whose names were not upon the register of Colonel Ward, as should produce evidence of credible and intelligent witnesses, inducing me to believe that the omission of their names on the register was caused by the mistake or neglect of the agent, and to report thereon in season for the action of the next Congress, that justice might be done to the Indians and the Government." Under these instructions, I made a number of locations upon the application of claimants, whose names, with the evidence in support of their claims, were transmitted to the Department within the prescribed time, and were submitted to the last Congress. In the month of April, 1835, I received another communication from the Department, dated the 11th March preceding, stating that "no definite legislative action was had during the preceding Congress upon the locations submitted as above mentioned, and that in the opinion of the Department, nothing more could be done until the next session." In this communication, I am instructed to "report to the proper land offices, and to this Department, the locations I had made, and those I might make under the former instructions;" and am advised "that the lands would be reserved from sale until the decision of Congress should be known;" and am required "to inform the claimants of the course contemplated." From the tenor of this communication, in connection with my previous instructions, urging "my prompt and vigilant attention, that justice might be done to the Indians and the Government," and various other communications from time to time received from the Department, directing me to make reservations for individual claimants under the 14th article, whose testimony had been submitted to the Department, and whose cases were, in all material respects, similar to those presented to me, I felt compelled to continue my notice to all claimants of this character to present their applications. An additional fact, showing the propriety of extending the time for receiving applications of this nature, is that much testimony in support of a large class of claims since located, was presented to me and reported to the Department, but for want of time, the individual applications for location could not be made so as to be embraced in that report. The locations made since my last report, are contained in the document marked F, and the evidence in support of them, in documents marked A, B, C, D and E, and Congressional document No. 138, herewith transmitted to the Department. In the prosecution of my duties as locating agent, especially those which pertained to the claims under the 14th article of the treaty, I have had many and serious difficulties to encounter. The want of copies of the plats of survey which I was

assured, before I entered upon those duties, should be furnished, but which were never received, and when applied for at some of the land offices, were peremptorily refused, has occasioned me much embarrassment. The necessity of making numerous reservations in the same district of country, without any maps upon which to mark them, has probably, in some instances, occasioned conflicting locations. This, under the circumstances of my situation at the time, could not completely be guarded against. I have also felt considerable embarrassment on account of the number of the claims, and the danger there might be that some of them would ultimately prove to have been sustained by false testimony. To guard against any attempt at fraud or imposition, I caused a notice to be inserted in the public newspapers, at the commencement of my official duties, requesting all honest citizens who might know of any fraud or misrepresentation in procuring locations, to make such facts known to me. Notices of a similar import, and for the same object, were repeatedly published in the newspapers during the whole term of my official duties. Upon hearing any rumor of fraud in connection with these locations; I have invariably taken pains to search for the evidence, and in two instances felt myself authorized to institute a board of commissioners: one during the month of December last, to sit in Columbus, and near the same time, another to sit in the interior of the Choctaw country, to summon witnesses and procure testimony in relation to any frauds perpetrated or attempted, respecting these claims. The results of these commissions have already been communicated to the Department; no fraud having been detected. I do not pretend to say that frauds may not have been practised upon me, but I do say, that upon the most cautious investigations, I have failed to discover any. I have endeavored faithfully to adhere to my instructions, to keep in view the principle enjoined upon me by the Department, "to do equal justice to the Indians and the Government;" and to proceed just so far as the evidence of credible and intelligent witnesses, bearing upon the facts I was compelled by my instructions to act upon, necessarily led me, and no farther. I considered it my duty to inquire into the justice of the claims, agreeably to my instructions, and not into their number or the aggregate amount of land to be reserved for them. I cannot close this communication without stating my opinion, that under the present circumstances of excitement on the subject, there is no way in which justice can be done to the Indians, while the interests of the Government may be completely guarded, except by some provision constituting a board of commissioners, to sit at a convenient point in the Choctaw country, for the purpose of receiving testimony, examining the facts, and deciding upon the claims.

All which is respectfully submitted.

I have the honor to be,

Respectfully, yours,

GEORGE W. MARTIN.

Hon. LEWIS CASS,  
Secretary of War.

[ Rep. No. 663. ]

G—No. 1.

*To those who claim reservations under the treaty of Dancing Rabbit creek.*

By a communication from the War Department, under date of July 23, which was not received until the 5th of August last, I learned that I was appointed to make the selections and locations of the reservations of lands granted to the Choctaws under, and by virtue of, the provisions of the treaty of Dancing Rabbit creek, made and entered into on the 27th of September, 1830, between the United States of America and the Choctaw nation of Indians. It was contemplated by the Department, before I proceeded to the discharge of the duties required of me, that I should be furnished with the plats of all the townships of land within that district of country ceded by the treaty aforesaid, which have been surveyed, and also with copies of the register of all persons entitled to land under the same. I have not yet been furnished with any of the plats of survey, and with but imperfect copies of the registers. By a communication from the War Department, dated August 8, which I received on the 8th instant, I am informed that the President of the United States has directed the lands ceded by the treaty aforesaid to be offered at public sale, to commence on the third Monday in October next, and that it is necessary for the reservations provided for under the treaty to be located prior to the day of sale, and I am directed to proceed without delay to execute the duty required of me. My instructions seem to require of me to go in person on the ground, and examine the improvement and lines of survey, corner posts, &c. of each local reservation claimed under the treaty: this I am unable to do before the day of sale. For the information of those interested, I have prescribed the following rules and regulations, to be observed in presenting claims under the treaty, and in making locations which are as nearly in conformity with my instructions as the circumstances of the case will permit. I will open an office in each land district within that tract of country ceded by the treaty aforesaid, for the purpose of receiving applications and registering the names of applicants for reservations as soon as practicable, and keep the same open until the day set apart for the commencement of the sales in each district. In the northwestern district the office will be opened at Elliot; in the northeastern district, at Columbus; in the Augusta district, at Augusta; and in the Mount Salus district, at Clinton.

The applicants must proceed to the place designated in their respective districts prior to the day of sale, and adduce to the agent, or such person as may be appointed to represent him, satisfactory proof that he or she is entitled to a reservation of land under the treaty, designating the numbers of the reservation so claimed. The name of the reservee will then be registered, the number of the section, half section, quarter section, or other quantity, to which he may be entitled, marked on the plat of survey, in the proper land office, and the land reserved from sale. The reservations granted to heads of families, under the fourteenth article of the treaty, to those who desire to remain five years, and become citizens, will be bounded by sectional, half sectional, or quarter sectional lines of survey, and so located as to include the improvement of the head of the family at the time of the making of the treaty, or a portion of it. The half sections and quarter sections allowed for their children, must adjoin the location of the



parent. The reservations granted under the third and fourth clauses of the nineteenth article of the treaty, will also be bounded by sectional and quarter sectional lines of survey, and so located as to include that part of the improvement which contained the dwelling house of the head of the family, at the time of the making of the treaty. When the dwelling house of two or more persons entitled to reservations under this article, shall be included within the same section, half section, or quarter section, they will be so located as to take such legal subdivisions of adjacent sections as will give to each reservee his claim in as square a form as practicable: thus, if different improvements are so situated upon the same section, or subdivision of a section, as to allow the parties, by taking legal subdivisions, to retain that part of their respective improvements containing their dwelling houses, they will have to take such legal subdivisions, together with such adjacent lands, as may be necessary to give the required shape and contents to their claims. If, however, two or more reservees have settled upon and improved the smallest legal subdivision of a section, and thus rendered it impracticable to make a division of the improvements by the selection of legal subdivisions, they will have to make an arrangement among themselves as to the manner in which their reservations are to be located. If they cannot agree among themselves, they will be permitted to cast lots for the same; and those who lose their improvements take the quantity to which they are entitled out of the adjacent lands. Where a reservation, based upon an actual improvement, falls on a fraction, and that fraction is short of the number of acres to which the reservee is entitled, he will be allowed to make up the complement from the adjoining fraction, provided that the subdivision which may be located to complete the quantity, be so designated as to give an entire reserve a square form. If the contingency should happen contemplated in the latter part of the fourth clause of the nineteenth article, that the number of reservees should exceed the number provided for, the chief of the proper district will be called on to decide who shall be excluded. Captains entitled to less than a section, who claim an additional half section under the fifth clause of the nineteenth article, must locate the same on lands adjoining their improvements and dwelling house. Those claiming local reservations granted to them by name in the treaty, or the supplement thereto, in designating the boundaries of their claims, will have to be governed by the rules prescribed in the particular clause under which they claim. Those persons claiming floating reservations granted to them by name in the treaty or supplement, will be permitted to locate the same on any lands which were unoccupied and unimproved at the time of the making of the treaty, unless confined by the treaty to a particular district. In making the locations, they will be confined to sectional, half sectional, or quarter sectional lines of survey, and will not be permitted to cross sectional, half sectional or quarter sectional lines. If they locate them on fractional sections, they will be compelled to take such fraction, if less than the complement, in full satisfaction of the whole quantity claimed under such floating reserve. In no case whatever can a floating claim be divided. Where application is made at the same time to locate two or more floating claims of equal size on the same tract of land, the same course for the adjustment of the matter as is prescribed in case of conflicting claims under the third and fourth clauses of the 19th article, will be pursued as near as practicable, and all confusions will be settled in the same manner. Where application is made at the same time to locate two or more floating claims of different sizes, the

largest will have the preference: thus, a section will have precedence over a half section, and a half section be preferred to a quarter section; &c. In all cases the claim will be confined within the section lines of the section run and marked by the surveyor of the United States, and will not be permitted to go into an adjoining section or fraction unless the quantity of land or the terms of the treaty in which the grant is made, requires or authorizes it to be done. I intend to examine, on the ground, after the sales, the several local reservations, if it should be deemed necessary to a final adjustment and settlement of the claim, before I return a register thereof to the War Department, or adopt such other course as I may be instructed to pursue in relation thereto. It is important that every claimant should, in person, or by his agent, attend promptly to his interest, and make his application, particularly describing the land claimed within the time prescribed, in order to exclude his land from sale. I have thus given explicitly my views, and the substance of the instructions to me, which I hope will be satisfactory to all interested. If any additional information is desired in relation to any clause of the treaty, which I have inadvertently omitted, I will take great pleasure in giving it on application. It is the intention of the President, as well as the War Department, and the undersigned, in making the locations of the several reservations granted under the treaty, to conform to the letter and spirit of that instrument in every particular, and to construe the same, wherever well founded doubt shall arise, and any discretionary power is to be exercised, "favorably towards the Choctaws."

GEO. W. MARTIN,

*Agent for locating Indian Reservations.*

September 15, 1833.

---

G—No. 2.

To all those interested in reservations in the late Choctaw purchase at Dancing Rabbit creek. "Let no white man interfere with you in those locations; receive no representatives from any one. Any conveyance made by the Indians are yet wholly void, and the President does not recognise the right of a single person claiming lands in the Choctaw country under a deed or conveyance from any Indian. The representatives of the Indians themselves, you are at liberty to receive, and it is proper they should be received." I take the earliest opportunity to give publicity to the above extract, as part of my instructions from the War Department, for the information of those it may concern.

GEO. W. MARTIN,

*Commissioner of Indian Claims.*

N. B. The commissioner for locating Indian reserves is desirous of any information relative to such claims, as may have been already located, and takes this occasion to request all honest citizens residing in the late purchase from the Choctaws, who may know of any fraud or misrepresentation in procuring locations on lands, to which the claimants are not justly entitled under the treaty, to make such facts known to the commissioner.

G. W. M.

The editor of the *Mississippian*, at Jackson, will please publish this notice. November 19, 1833.

G—No. 3.

We are requested to give notice to all who are interested, that Col. G. W. Martin, the locating agent, under the treaty of Dancing Rabbit creek, will be in Columbus on the first Monday of November next, for the purpose of making a final location of the lands claimed by the Choctaws under said treaty, when all proper testimony in favor of or against any location will be heard and determined upon. October, 1835.

G—No. 4.

NOTICE.

The undersigned, locating agent for registering and locating claims under the provisions of the treaty made with the Choctaw Indians at Dancing Rabbit creek, being desirous of any information touching all or any said reservations, and more particularly the locations recently made, and are now making, under the late instructions from the War Department, directing me to make conditional reservations to Choctaw citizens, under the provisions of the 14th article of the treaty, and which are subject to the final action of Congress. It is expected that the information furnished, will consist of facts, not vague rumors; that is, information of such character as will justify the agent in taking the proper steps to correct errors or frauds, that may be attempted on the Government, by any applicant reservee, his agent or attorney.

GEO. W. MARTIN,

*Land agent under the treaty at Dancing Rabbit creek.*

November 14, 1835.

## H.

*REGISTER of Choctaw names, as entered by the agent previous to the 24th of August, 1831, who wish to become citizens, according to a provision of the late treaty in 1830.*

Date of entries.	Names of persons who wish to remain 5 years.	No. of children under 10 years.	No. of children over 10 years.	General remarks.
April 18, 1831	John Moore - -	4	3	White man, Indian wife.
May 7, 1831	Iklanabee - -	-	3	Indian.
Do.	Onatamba - -	-	3	do.
Do.	Samuel Byington - -	-	-	do.
Do.	Alabača - -	2	-	Indian woman.
Do.	Jack Jinkens - -	3	-	Indian.
May 17, 1831	Samuel Cobb - -	4	1	Indian, half breed.
Do.	James Pickens - -	4	2	
Do.	John Pickens - -	1	-	
May 20, 1831	Hartwell Hardaway - -	3	4	White man, Indian wife.
May 23, 1831	Henry Garvin - -	1	-	do. do.
Do.	George Murphey - -	4	1	
Do.	Patrick Byley - -	2	1	
Do.	Wm. Christy - -	4	4	
June 13, 1831	Alexander Brashears - -	5	2	Indian, half breed.
Do.	Robert Hencock - -	3	2	
Do.	Arthur Kerney - -	2	1	
Do.	Betsy Beems - -	-	-	Woman, half breed.
Do.	Robert McGilvery - -	2	-	Indian, half breed.
Do.	John Walker - -	3	4	White man, Indian wife.
Do.	Delila Brashears - -	3	3	Woman, half breed.
Do.	Zadock Brashears - -	2	1	Indian, half breed.
Do.	Turner Brashears, jr. - -	-	-	do. do.
Do.	Allen Stanton - -	2	-	White man, Indian wife.
Do.	Adam James - -	4	2	Indian, half breed.
Do.	Rachel Brashears - -	1	-	Woman, half breed.
Do.	Calvert Howell - -	2	-	White man, Indian wife.
June 14, 1831	William Foster. - -	2	-	Half breed.
June 16, 1831	Otemansha - -	-	-	Indian woman.
Do.	Hugh Foster - -	4	-	Indian, half breed.
Do.	James Foster - -	4	-	do. do.
June 18, 1833	Jim Tom - -	4	-	do. do.
Do.	Ohoyan - -	4	-	Woman, half breed.
June 21, 1831	Charles Buchanan - -	2	-	White man, Indian wife.
June 25, 1831	Henry Johnson - -	-	-	do. do.
Do.	Lewis Bryant - -	3	2	do. do.
July 2, 1831	Henry Pebworth - -	4	2	do. do.
July 5, 1831	John Jones - -	-	1	do. do.
Do.	Jacob Dannels - -	4	-	do. do.
Do.	Matthew Lebrush - -	-	-	do. do.
Do.	Luceve Durant - -	-	2	Indian, half breed.
Do.	William Hall - -	4	3	do. do.
Do.	Betsey Pinson - -	2	1	Woman, half breed.
Do.	William Lightfoot - -	3	-	do.
Do.	Anthony Parress - -	3	-	White man, Indian wife.
Do.	Lewis Robertson - -	2	-	
Do.	Lyman C. Collins - -	-	-	Indian.
July 18, 1831	Jack Tom - -	4	-	Indian, half breed.
July 26, 1831	Sophia Pitchlynn - -	1	3	Woman, half breed.
Aug. 3, 1831	Noah Wall - -	2	2	White man, Indian wife.
Aug. 13, 1831	Susanna Graham - -	-	1	Woman, half breed.
Do.	Anne V. Lewellyn - -	-	1	do. do.
Aug. 23, 1831	John McGilvery - -	2	3	Man, do.
Do.	Turner McGilvery - -	2	-	do. do.
Do.	Little Leader - -	2	3	Indian.

H—REGISTER—Continued.

Date of entries.	Names of persons who wish to remain 5 years.	No. of children under 10 years.	No. of children over 10 years.	General remarks.
Aug. 23, 1831	Hotah - - -	1	1	
Do.	Eyatubbee - - -	2		
Do.	Hiatubbee - - -	1		
Do.	Onahambee - - -	3		
Do.	Oguahotonah - - -	2	1	Indian woman.
Do.	Tusononsha - - -	2		
Do.	Onakastubbee - - -	3		Indian.
Do.	Lalahnia - - -	3	2	
Do.	Janimtubbee - - -			
Do.	Noatenah - - -	9	2	Indian woman.
Do.	Anolah - - -	3	2	Do. do.
Do.	Ispia - - -	3	2	Do. do.
Do.	Tuwatucha - - -	3	3	Do. do.
Do.	Nawahhona - - -	2	3	

I do certify that the foregoing persons did apply to me as agent, to have their names registered to remain five years and become citizens of the State before the 24th ———, 1831.

W. WARD, U. S. Agent.



## I.

CHOCTAW AGENCY, *September 11, 1833.*

SIR: I have just returned from the lower district, and find here Mr. Martin, the agent selected to locate the land claims under the late treaty with the Choctaws. Mr. Martin has shown me his instructions, in which he is directed to apply to me and Col. Ward for a copy of the register of those entitled to land under the cultivation section. The register, in the possession of Col. Ward, is in part destroyed. I acted as an agent in taking the census, and examining the fields in Mushulatubbee district, which was returned to the War Office. Before Mr. Martin can act, he will have to be furnished with a copy of those entitled to land, as will appear by the books returned by my brother, F. W. Armstrong, and also a list of those who have relinquished their land to the Government, on which payment in part, was made west of Mississippi last winter. The books will show the locality of the land, and enable the agent to discharge his duty. The lands are advertised for sale, and knowing that not a moment is to be lost, I have taken the liberty of addressing you on the subject.

Respectfully,

Your obedient servant,

WM. ARMSTRONG,

*Super't Choctaw removal.*

HON. LEWIS CASS,  
*Secretary of War.*

---

J.

CHOCTAW AGENCY, *September 14, 1833.*

SIR: I have the honor to acknowledge the receipt of yours of the 30th of August last, requesting me to act in valuing the improvements and other property belonging to the board of American missions within the Choctaw purchase. I will endeavor to perform this duty as early as practicable, and report as directed. The several missionary stations are located in the three districts of the nation, at some distance apart. I shall, however, notify Mr. Kingsbury, who, I understand, is the agent for the board, and proceed immediately. I took the liberty of writing to the Secretary of War, by last mail, in reference to what would be proper to furnish Mr. Martin with, the agent for locating the land under the treaty. This I did, because, in Mr. Martin's instructions, he had been directed to call on me, with Col. Ward, for a register, &c. I was one of the agents who took the census, and surveyed the fields under the cultivation section in the Choctaw nation, which was returned by my brother, F. W. Armstrong, to the War Department. A copy of those who were entitled to land by cultivation, will have to be furnished Mr. Martin, which copy will show the locality and quantity of land; also a copy of those who relinquished their lands to the United States; as also a copy of those who registered to remain five years, and become citizens. The register of those entitled to land, left by F. W. Armstrong with Col. Ward, was left exposed, and, indeed, a leaf or two lost. Mr. Martin took it with him to Chocchuha, and, I presume, will act, as far as he can, until he receives other instructions.



K—No. 1.

*REGISTER of Choctaws as entered by the agent previous to the 24th*  
*—, 1831, who wish to become citizens according to a provision of*  
*the treaty of 1830.*

Date of entry.	Names of persons who wish reserves by remaining five years and be citizens.	No. of children under 10 years.	No. of children over 10 years.	General remarks.
April 18, 1831	John Moore - - -	4	3	White man, with Indian wife.
May 7, 1831	Iklanabbe - - -	-	3	Indian.
" " "	Onatambee - - -	2	-	do.
" " "	Samuel Byington - - -	-	-	do.
" " "	Alabache - - -	2	-	Indian woman.
" " "	Jack Junkins - - -	3	-	Indian.
" 17, "	Samuel Cobb - - -	4	1	do.
" " "	James Pickens - - -	4	2	do.
" " "	John Pickens - - -	1	-	do.
" 20, "	Hartwell Hardaway - - -	3	4	White man, Indian wife.
" 23, "	Henry Garvin - - -	1	-	do. do.
" " "	George Murphy - - -	4	1	do. do.
" 26, "	Patrick Reyley - - -	2	1	do. do.
" " "	William Christy - - -	4	4	do. do.
June 13, "	Alexander Brashears - - -	5	2	Half blood Creek.
" " "	Robert Hencocck - - -	3	2	Half blood Choctaw.
" " "	Arthur Carney - - -	2	1	do. do.
" " "	Betsy Beemes - - -	1	-	Half breed woman.
" " "	Robert McGilvery - - -	2	-	do. Indian man.
" " "	John Walker - - -	3	4	White man, Indian wife.
" " "	Deliah Brashears - - -	3	3	Half breed woman.
" " "	Zadoc Brashears - - -	2	-	Half breed man.
" " "	Turner Brashears - - -	-	-	do. do.
" " "	Alen Stanton - - -	2	-	White man.
" " "	Adam James - - -	4	2	Half breed man.
" " "	Rachel Brashears - - -	1	-	Half breed woman.
" " "	Calvan Howell - - -	2	-	White man, Indian wife.
" 14, "	William Foster - - -	2	-	Half breed man.
" 16, "	Otemansha - - -	-	-	Indian woman.
" " "	James Foster - - -	3	-	Half breed.
" " "	Hugh Foster - - -	4	-	do.
" 18, "	Jim Tom - - -	2	-	do.
" " "	Ohoyon - - -	4	3	Half breed woman.
" 21, "	Charles Buckhannon - - -	2	-	White man, Indian wife.
" 25, "	Nancy Johnson - - -	-	-	Half breed woman.
" " "	Lewis Bryant - - -	3	2	White man, Indian wife.
" 29, "	Sampson Moncrief - - -	3	1	do. do.
July 2, "	Henry Pebworth - - -	4	2	do. do.
" 5, "	John Jones - - -	-	1	do. do.
" " "	Jacob Dannels - - -	4	-	do. do.
" " "	Marthew Labrouse - - -	-	-	Lived on the military road.
" " "	Linev Durant - - -	-	2	Half breed.
" " "	William Hall - - -	4	3	do. man.
" " "	Betsy Pinson - - -	2	1	do. woman.
" " "	William Lightfoot - - -	3	-	do. man.
" " "	Antony Parres - - -	3	-	White man, Indian wife.
" " "	Lewis Robertson - - -	2	-	do. do.
" " "	Lyman C. Collins - - -	-	-	Indian man.
" 8, "	Jack Toms - - -	4	-	Half breed.
" 26, "	Sophiah Pitchlynn - - -	1	3	Half breed woman.
Aug. 3, "	Noah Wall - - -	-	2	White man, Indian wife.
" 13, "	Suhannah Graytam - - -	-	1	Half breed woman.
" " "	Ann V. Lewellyn - - -	-	-	do. do.

K—No. 1.—REGISTER—Continued.

Date of entry.	Names of persons who wish reserves by remaining five years and be citizens.	No. of children under 10 years.	No. of children over 10 years.	General remarks.
Aug. 23, 1831	John McGilvery - - -	2	3	Half breed man.
" " "	Gordon McGilvery - - -	2	-	do. do.
" " "	Turner McGilvery - - -	1	-	do. do.
" " "	Little Leader - - -	2	3	Indian man.
" " "	Hotah - - -	1	1	do. do.
" " "	Eyatubbee - - -	2	-	do. do.
" " "	Hiatubbee - - -	1	-	do. do.
" " "	Onahambe - - -	3	1	do. do.
" " "	Ogoahotonah - - -	2	1	do. woman.
" " "	Tusonontha - - -	2	-	do. do.
" " "	Anokadubbee - - -	3	-	do. man.
" " "	Salahma - - -	3	2	do. do.
" " "	Ianimtubbee - - -	-	-	do. do.
" " "	Noahimah - - -	2	2	do. woman.
" " "	Anola - - -	3	2	do. do.
" " "	Ispia - - -	3	2	do. do.
" " "	Funaytucha - - -	3	3	do. do.
" " "	Nowahonah - - -	2	3	do. do.

I do certify that the names as registered by me were entered previous to the 24th of August, 1831, to become citizens of the State.

W. WARD, U. S. Agent.

[Copy.]

*Registered for five years.*

Date of entry.	Names of persons who wish reserves, by remaining five years, and be citizens.	No. of children under 10 years.	No. of children over 10 years.	General remarks.
June 21, 1831	Ohoyo Tom - - -	4	3	Tombigba river.
" " "	Charles Buckhannch - - -	2	-	do. do.
" 25, "	Nancy Johnson - - -	-	-	Chicasawhay river.
" " "	Lewis Bryant - - -	3	2	do. do.
" 27, "	John Countee - - -	1	-	Yazoo river.
" 29, "	Sampson Moncrief - - -	3	1	Tombigbee river.
" 30, "	Henry Febworth - - -	4	2	do. do.
July 5, "	John Jones, senior - - -	-	2	do. do.
	Jacob Daniels - - -	4	-	do. do.
	Matthew Labrouse - - -	-	-	do. do.
	William Hall - - -	4	3	do. do.
	Betsey Pinson - - -	2	1	do. do.
	William Litefoot - - -	3	-	do. do.
	Antony Farris - - -	3	-	do. do.
	Lewis Robertson - - -	2	-	do. do.
	Lyman Collins - - -	-	-	do. do.
" 8, "	Henry T. Carr - - -	2	-	Oknoxoby creek.
" 11, "	George Johnston - - -	4	3	Chicasawhay river.
" 18, "	Tennessee Jones - - -	3	-	Oknoxoby creek.
	Lewis Durant - - -	-	1	Big Black river.
	Pier Durant - - -	2	4	do. do.
	James Karnes - - -	4	4	do. do.
	Rosease Durant - - -	2	-	do. do.
	William Taylor (white man)	3	1	do. do.
" " "	Joe Payton - - -	-	1	do. do.
	Fisher Durant - - -	-	-	do. do.
	Peggy Kearns - - -	-	-	do. do.
" 22, "	Jack Tom (colored man) - - -	4	-	Tombigbay river.
" 26, "	Sophiah Pitchlynn - - -	1	3	do. do.
	Jockalolah - - -	-	2	do. do.
Aug. 4, "	Ennes Wade (white man) - - -	4	-	Yellobushah creek.
	Samuel A. Allen (white man)	1	-	do. do.
" 17, "	Betsey Buckles - - -	5	3	Tombigba river.
" 23, "	Hoolbatubbee - - -	2	-	Leaf river.
	Hoshaleobba - - -	3	2	do. do.
	Muckatonah - - -	1	2	do. do.
	Chaffatokechia - - -	-	-	Hashookwah creek.
	John McGilbray - - -	2	4	Tombigbay river.
	Gorden McGilbray - - -	2	-	do. do.
	Turner McGilbray - - -	1	-	do. do.
May 7, "	Jack Jinkins - - -	3	-	Oknoxoby.
	Heartwell Hardway - - -	3	4	Hashookwa creek.
" 17, "	Samuel Cobb - - -	5	5	Pearl river.
	James Pickins - - -	6	3	do. do.
	John Pickins - - -	1	-	do. do.
" 23, "	Henry Garvin - - -	1	-	Chicasawhay.
	George Murpha - - -	4	1	do.
" 26, "	Patrick Riley - - -	2	1	Yazoo river.
	William Christy - - -	4	4	Six towns.
June 13, "	Alexander Brashears - - -	6	3	Suckenacha creek.
	Robert Hancock - - -	3	5	Tombigbay river.
	Arther Kernay - - -	2	-	do. do.
	Betsey Beams - - -	-	-	do. do.



K—No. 2.—REGISTER—Continued.

Date of entry.	Names of persons who wish reserves, by remaining five years, and be citizens.	No. of children under 10 years.	No. of children over 10 years.	General remarks.
	Robert McGilbrey - -	2	-	Tombigbay river.
	John Walker - - -	3	4	do. do.
	Delila Brashears - -	3	3	do. do.
	Zadock Brashears - -	2	-	do. do.
	Turner Brashears - -	-	-	do. do.
	Stanmore H. Johnston	-	-	do. do.
	Allen Stanton - - -	2	-	do. do.
	Adam James - - -	4	2	Sand creek.
	Calvin Howell - - -	2	-	Tombigbay river.
	Rachel Brashears - -	1	-	do. do.
	William Foster - - -	2	-	Mississippi river.
	Oteimansah Foster - -	-	-	Black creek.
	James Foster - - -	3	-	do. do.
	Hugh Foster - - -	4	-	Mississippi.
	Jim Tom - - -	2	-	Tombigbay river.

L.

COLUMBUS, November 8, 1833.

SIR; I arrived here this morning at 8 o'clock, having left Chocchuma on Tuesday night, 5th instant, having closed the business in that district at present, having, as I believe, located all claims as I believe justly entitled under the treaty, (when found on the register furnished me as my guide, &c.) except, perhaps, some floating claims, which possibly may be held up by owner. I am happy to have it in my power to say that I believe I shall have the same success here, from the great number of claims already located in this district.

I left Chocchuma on Tuesday, in the second week of the sale of the public lands. As I am extremely pressed with business at this moment, I shall write to the Department again, in a short time more fully, and am progressing further with matters here. I am happy to say to you, I am in possession of the registers sent me from Washington. I received them on the 18th of October, by an express from this place. Your esteemed favor of the 27th of September, came to hand on the 18th of October, with regard to all of which I will write you more fully in a few days.

I am, &amp;c.

GEO. W. MARTIN.

The hon. LEWIS CASS, *Washington*.

P. S. The registers I received from Washington are deficient, as regards the citizens or five years' claims, as I find no such claims alluded to in any part of the said registers. These claims are under the 14th article of the treaty. If there is any such register, I should like to know it. There are many complaints of the defects of the one furnished by Col. Ward.

Respectfully,

G. W.

M.

CHOCCHUMA, MISS.

November 14, 1834.

DEAR SIR: I am in the receipt of instructions from the War Department, dated the 13th October, to the following effect: "You will, therefore, give public notice that persons who consider themselves entitled to reservations under the 14th article, and whose names are not upon the register of Colonel Ward, will exhibit to you the evidence in support of their claims. This evidence must show that they were citizens of the Choctaw nation, heads of families, and did signify their intention to become citizens within the time prescribed by the treaty. It must also show the time of their application to be registered, and the conversation and circumstances relating to it." "If they bring themselves within the requisition of the 14th article, and the evidence of credible and intelligent witnesses induces you to believe that the omission of their names on the register was caused by the mistake or neglect of the agent, you will make locations for them in the manner pointed out in the instructions heretofore given to you. These locations, it must be understood, are contingent, and will be complete only in the event of their being confirmed by Congress."

Now, sir, you will readily see the impossibility of my attending at all the different land offices prior to the day of sale, and I have already given notice to the claimants to apply at this place for the purpose of having them laid before Congress: and it would appear to me that all those who will come before you with their claims fully authenticated, under the rule laid down by the Department in the instructions of the 13th ultimo, these lands should be reserved from sale, and the claimants are required to produce their claims, with a description of the land, together with all the requisites as set out with regard to the testimony, to me, at Chocchuma, at the earliest time practicable, that the same may be communicated by me to the proper Department for the consideration of the next Congress, and it is expected they will have their immediate attention, and presented here for examination.

Respectfully, &c.

GEO. W. MARTIN.

WILLIAM HOWSE, Esq.

*Register of the Land Office, Augusta, Miss.*

A similar letter to the above was transmitted to Major William Downing, the register at Columbus.

December 24, 1834.

GEO. W. MARTIN.

---

N. No. 1.

STATE OF MISSISSIPPI, *Oke-tibbe-ha county* :

Gabriel Lincecum having been summoned before me, the subscribing justice of the peace, in and for the county and State aforesaid, to declare what he may know respecting the claims of certain Choctaw Indians, under the 14th article of the treaty of Dancing Rabbit creek, after being duly sworn, deposed and saith, as set forth in his answers to the following interrogatories, to wit :

**Question.** Where did you live in the years 1830 and 1831 ?

**Answer.** In the year 1830, I lived in the Choctaw nation, about one half mile east of the agency, and in 1831, I moved to another place about one mile and half west of the agency, on the Robeson road, where I now reside.

**Question.** Were you at Dancing Rabbit creek council ground when the treaty was made? If so, please to state whether the Indians reluctantly made that treaty, and what induced those to consent to it who did consent?

**Answer.** I was there during the time, and was extremely anxious that the treaty should be made, and I know that many of the Choctaws were altogether opposed to making the treaty, and utterly opposed to removing west; from all I heard and witnessed, I am entirely confident that no treaty could have been made, but for the solemn assurances of the commissioners, made in public council, that all might stay and keep their homes who did not wish to go, and the Indians distinctly understood that this was put down as a part of the treaty.

**Question.** What settlements of Indians were most opposed to removing?

Answer. There were many from every part of the nation who seemed determined not to go, but I think the Indians living on Bogue-chitto and the Mogalush-as, and those living on Sook-e-natohe, and on the head waters of Pearl, Leaf and Chickasaw-hay were the most open in their opposition to removing: it was a very common declaration among them, that they would die before they would go west.

Question. Did these Indians afterwards change their opinions and go west, or are they yet here?

Answer. A great many of them were afterwards induced to remove, but a considerable number of them yet remain, and claim their lands by the treaty.

Question. Did you, during the six months allowed for registration, ever see any of these Indians who yet remain here, go forward to the agent, and signify their wish or intention to stay and retain lands?

Answer. Yes, many of them: as stated in a former deposition, I saw the representatives of some of these Indians go forward to the agent with a large bundle of sticks, as is the Indian custom, and offer to register the families thus represented, but the agent refused to receive them, and threw them away, saying, that there were too many of them, and that they had sold their lands, and must go west. I have also, on various occasions seen the agent object to register the names of Indians who went to him on purpose; I have seen him at other times register a good many names, and I have seen him put down names which afterwards could not be found on the book.

Question. You resided a near neighbor to the agent during this important period of his agency, will you state what were his habits of business?

Answer. I lived near the agency, as before stated, and was very often at the agent's house, where he did all his business, and must say that his habits of business were very loose and careless. He kept his book lying on the table at all times, free to the inspection of all who wished to look into it. I have often seen persons take the register out of the room where it was deposited to other parts of the house, and out into the yard, and inspect it as much as they wished. I have seen it loaned out and taken off by persons. Several times the agent sent the book to my house by persons who wished to find names in it, for me to examine, he himself not wishing to take the trouble to do so.

Question. You then often saw the register and looked over it, can you form any opinion as to the number of names that were actually entered down?

Answer. I cannot undertake to state what number of names were registered, as I never made any count, but I am certain there must have been several hundred at least: I know that I have frequently spent one or two hours in looking over it, before I could find some particular name that I was in search of.

Question. What were the habits of the agent, and of his deputy, Stephen Ward?

Answer. The habits of both were very intemperate, to such a degree indeed as totally to disqualify them for business. The agent himself was often absent from the agency during the six months allowed for registering, and in his absence, Stephen Ward had charge of the business. I have often seen him so much intoxicated that he could neither read nor write; I have seen the mail arrive when he would be too drunk to open it, and

he would tell me to do it. I have often opened the mail under these circumstances, and sometimes the driver would open it, and sometimes one, and sometimes another.

Question. Were the agent and his deputy opposed to the Indians taking the five year's stay to become citizens?

Answer. Most certainly they were; and Colonel Ward was so much so, that he seriously advised the emigrating agents to whip such as did not wish to go, and force them off.

Question. Was David Fulsom often at the agency, and had he free access to the register?

Answer. Yes, he lived near the agency, and was often there, and had just as free access to the book as Colonel Ward himself. He was very much opposed to any of the Indians staying, and I always suspected that he had some agency in destroying the register of names, though I have no certain knowledge of it.

GABRIEL LINCECUM.

Sworn to and subscribed before me, on the 30th November, 1835.

WILLIAM CABANISS, *J. P.*

STATE OF MISSISSIPPI, *Oke-tibbe-ha county* :

I, Charles Dibrell, clerk of probate in and for said county, do certify that William Cabaniss is, and was, at the time of signing the above, an acting justice of the peace for said county, and duly commissioned as such, and that due faith and credit is given to his official acts.

Given under my hand and seal of office, at office, the 30th day of November, 1835.

CHARLES DIBRELL, *Clerk.*

---

N—No. 2.

STATE OF MISSISSIPPI, *Lowndes county* :

Grant Lincecum being called on to state what he knows touching an application made to William Ward, late United States agent, by certain Choctaw Indians, to have their names registered according to the 14th article of the treaty of Dancing Rabbit creek, deposes and saith as follows, to wit: That he was present at the assembly of Indians, called at the council-house, near the agency, in June, 1831, for the purpose of distributing the annuity, and of affording to all such Indians as did not wish to emigrate, an opportunity of registering their names to become citizens and hold lands, as provided for under the 14th article of the treaty. He states that when the business of the day was opened, the agent directed the interpreter, Middleton McKee, to tell the Indians that all who did not wish to emigrate had a right, by the treaty, to stay and hold lands, and that he was then ready to receive their names, and register them in his book; all of which the interpreter did make known to the Indians. This deponent further states, that after the business of the day had considerably advanced, and while he was standing near the agent's table noticing what was going on, he saw a parcel of Indians come up, with an Indian they called the *Red Post Oak*, as their spokesman, and one or two others as sort of leaders.



One of them had a bundle of sticks in his hand, which he gave in to the agent, and told the interpreter to inform the agent that these sticks represented a number of Indians who were unwilling to go away, and who wished to remain, become citizens, and hold their lands, and that they would give in the names of each head of a family, the number and sizes of their children.

The interpreter explained all this to the agent, who took up the sticks and threw them away, and said there were too many of them, and told the interpreter to tell them that they must move west of the Mississippi.

Question. Did the interpreter tell the Indians what the agent said?

Answer. Yes, he did, and it gave great dissatisfaction to them. Some of them talked a good deal about it, and said it was not what the treaty promised them; they said they would never move away; that the treaty promised them that they might stay here and live on their lands if they did not wish to move away. Some of them said they would die before they would go; others said they would go home and live on their lands, they had confidence that the Government would not drive them off. There were some white men present, who advised the Indians to go home and stay on their lands, and told them that the Government would treat them honestly.

Question. Do you understand the Choctaw language?

Answer. Yes, I understand and speak it very well. I have lived in constant intercourse with the Choctaws for the past twenty odd years.

Question. Is it a common method for the Choctaws to give in and enumerate by sticks in the manner you mentioned?

Answer. They always use sticks, or corn, or something of the sort, to count by; most commonly small sticks.

Question. What became of those Indians after they were repulsed in the manner you stated by the agent?

Answer. They all went to their homes. After a time some of them became discouraged, thinking they could get no lands, and concluded to move off to Arkansas. But others of them still stick to their homes, and say they never will move, but will die first. The last time the emigrating agent was collecting a company to go, one of the sub-agents went among the Indians to get them to go. Finding that persuasions would not do, he used all kinds of threats, and told them if they did not go, the soldiers would soon come with their muskets and drive them off. About that time I passed through one of their little settlements, and found, in some places, the women and children had left their houses and fled into the woods and swamps to keep out of the way of the soldiers. They were told that the soldiers were coming with guns and bayonets to drive them off. I told them it was all false, and quieted their fears as well as I could, and they returned to their houses. They have since lived on their lands, except in some cases where white settlers would drive them off and take possession of their houses and lands; and those who occupied good land have generally met with this fate. The coming on of the land sales has alarmed them, as they are told by the whites that their lands will now be sold. This has made them employ counsel, and apply to the Government for relief and aid.

Question. Have any of these Indians, to your knowledge, ever received any reservations, such as field or cultivation claims, for their improvement?

Answer. No. I have frequently been among them, and I am very cer-

tain that not one of those now applying to Congress ever received any reservations, or other benefits of the treaty. All they wanted was their lands and homes, and they say they wish to become citizens, and live under the white men's laws.

Question. You say that the agent, in the morning when the business opened, gave notice that all who wished might come forward and register, and then, after a time, he refused to register the names offered. How do you account for this conduct?

Answer. All who know the agent's habits can very easily account for it. In the morning he was sober, and in the evening he was drunk.

Question. Was the agent in the habit of intemperance?

Answer. Hundreds besides myself can answer that question in the affirmative.

Question. Do you recollect of seeing Samuel McGee, in May or June of the year 1831, at the agency give in his name, and did you see the agent register it?

Answer. Yes. I think it was in May, 1831. I was with McGee at the agency, and saw him give in his name, and saw Colonel Ward enter it down; but I understood that his name was not afterwards to be found, and McGee's land was sold from him at the sales. It was first quality land. He has never yet got any land.

And further this deponent saith not.

GRANT LINCECUM.

THE STATE OF MISSISSIPPI, *Lowndes county, ss.*

I, Adolphus G. Weir, notary public for the county and State, duly elected, commissioned, and qualified according to law, residing in the town of Columbus, in said county, do hereby certify that the within named Grant Lincecum, being summoned to appear and testify to the foregoing deposition, this day personally appeared before me in said county, and, after having been first duly sworn according to law, deposed and saith, that the facts, as set forth in said deposition, are true, to the best of his knowledge and belief. In testimony whereof, I, the said Adolphus G. Weir, notary public as aforesaid, have hereunto subscribed my hand, and affixed my notarial seal, at my office, in the town of Columbus, in said county, the 8th December, 1834, and 58th year of American Independence.

[ L. s. ]

ADOLPHUS G. WEIR.

I, George W. Martin, locating agent, do hereby certify that the foregoing is a true and correct copy of the original deposition of Grant Lincecum, which is on file in my office.

GEO. W. MARTIN.

CHOCCHUMA, *December 29, 1834.*

I am personally acquainted with Grant Lincecum, and believe him to be a man of truth and intelligence.

GEO. W. MARTIN.

*December 29, 1834.*

N—No. 3.

STATE OF MISSISSIPPI, *Lowndes county*:

Adam James being called upon to state what he knows respecting the application of certain Choctaw Indians to Mr. Ward, the late agent, to register their names for citizenship and land under the 14th article of the treaty of Dancing Rabbit creek, deposes and saith, as set forth in his answers to the following interrogatories, to wit:

Question. Were you present at the meeting of Indians held at the council-house near the agency, in the spring of 1831, which was called for the purpose of distributing the annuity, and of receiving names of such as wished to register for citizenship, and to hold their land?

Answer. Yes, I was present at the council or meeting.

Question. Did you see any Indians offer to register their names, and refused by the agent, and their sticks thrown away?

Answer. Yes I did. I was standing, among others, close by where the agent was at his table, and saw a number of Indians from the settlement on the head waters of Pearl, Leaf, and Suckenatchie rivers, with Red Pos Oak and some other leaders at their head, come up to register. They handed in a bundle of sticks, and said they wished to register the families that these sticks stood for, and that they would give in the names and numbers and ages of the children; they said they would not move off, but wanted to stay here, and live on their lands. When the interpreter, old McKee, told this to the agent, he took the sticks, and flung them away, and said there were too many of these Indians, and that they must move away.

Question. What became of the Indians after this refusal on the part of the agent to take their names?

Answer. They retired very much hurt and dissatisfied, and said it was not what was promised them in the treaty, and by Major Eaton in his last talk at Dancing Rabbit creek. Old McKee, the interpreter, also said it was a violation of the treaty, and he did not like it, for the agent had made him, in the morning, tell the Indians that all had a right to register and stay here, and hold their lands, if they did not choose to move; and now to turn them off in this way looked very bad, and the Indians might say he did not interpret right.

Question. What became of the Indians?

Answer. They said they would go home and stay on their lands, for they belonged to them. Some said the agent was drunk, and they did not believe the Government would take their lands from them; others said they would die rather than go to Arkansas. Since, however, a good many of them have been persuaded to go away, but others still stick to their houses, and say they will never go; they are now in hopes of getting their lands from Government, as all that have not moved away are trying to get their lands.

Question. Have the whites intruded on the improvements of these Indians?

Answer. Yes, they have, and in many cases taken their good lands from them, and pushed the Indians on the poor land. I understand that a great deal of the best land of the Indians, that was not sold at the first land sales, has been now taken by pre-emption rights.

In answer to questions, he further states that Mr. Ward was very

often disqualified for business in consequence of drinking, and that he believes he was intoxicated at the time he threw the sticks away.

He also states that Middleton McKee, the interpreter, has been dead these two years.

Question. What became of the sticks that were thus thrown away by the agent?

Answer. They were picked up by an Indian by the name of Hol-lo-tubbe, who said he would keep them to show hereafter.

Question. Where is Hol-lo-tubbe?

Answer. He afterwards moved west of the Mississippi, and I hear that he is now dead. And further this deponent saith not.

ADAM JAMES.

THE STATE OF MISSISSIPPI, *Lowndes county* :

I, Adolphus G. Weir, notary public for the county in the State aforesaid, do hereby certify, that the above named Adam James, being summoned to appear before me in said county, this day personally appeared before me in said county, and after having been duly sworn, deposes and saith, that the facts, as stated in the foregoing deposition, are true to the best of his knowledge and belief.

In testimony whereof, I, the said Adolphus G. Weir, notary public as aforesaid, have hereunto subscribed my name, and affixed my notarial, seal in the town of Columbus, this 9th day of December, 1834, and fifty-eighth year of American Independence.

[L. s.]

ADOLPHUS G. WEIR.

I, George W. Martin, locating agent, do hereby certify, that the foregoing is a true and correct copy of the original deposition of Adam James, and which is on file in my office.

GEORGE W. MARTIN.

Chocchuma, December 29, 1834.

N—No. 4.

THE STATE OF MISSISSIPPI, *Lowndes county* :

We, Reuben H. Grant and Jefferson Clements, having been called upon to state what we know in relation to the conduct and capacity of Colonel William Ward, late agent for the registration of certain Indians or Choc-taws, under the fourteenth article of the treaty of Dancing Rabbit creek, for citizenship and land, state as follows, to wit: We have been frequently present when the Indians made application to the agent, Colonel Ward, to register themselves to take citizenship and receive land, under the provisions of the fourteenth article of the treaty of Dancing Rabbit creek, and before the expiration of six months after the ratification of said treaty, and have known the agent, Col. Ward, to refuse and reject a good number of applicants, saying, "that they might go west of the Mississippi river;" that it would be better for them. Being requested, we further state, that the agent, Colonel Ward, was frequently incapable of attending to business,

from intoxication; and, when not intoxicated, was so negligent and careless that any persons who wished books and papers did pretty much as they pleased with them; and that said agent was much opposed to the Indians availing themselves of the advantages of the fourteenth article of the treaty aforesaid.

REUBEN H. GRANT,  
JEFFERSON CLEMENT

Sworn to and subscribed before me, December 23, 1834.

JOHN H. MORRIS, [SEAL.]  
*Justice of the Peace for said county*

I, George W. Martin, locating agent, do hereby certify, that the foregoing is a true and correct copy of the original deposition of Reuben H. Grant and Jefferson Clements, on file in my office.

GEORGE W. MARTIN.

*Chocchuma, December 29, 1834.*

I am personally acquainted with Reuben H. Grant and Jefferson Clements, and, from my own knowledge, believe them to be intelligent, credible, and honest men.

GEORGE W. MARTIN.

*December 29, 1834.*

N—No. 5.

STATE OF MISSISSIPPI, *Loundes county:*

Before me, Wm. H. Walsh, a justice of the peace in and for the county aforesaid, John C. Whitsett of Sumter county, Alabama, personally appeared, and upon oath deposed and said, that some time in the month of October, or November, 1831, this affiant went to the Choctaw agency for the purpose of examining the register of Choctaw claims. Soon after this affiant arrived at the agency aforesaid, a man rode up and said to Col. Ward, the then United States agent, that some men who had stopped at Col. D. Fulson's (who lived about four miles from the agency,) wish to have the register of Indian claims sent to them. Col. Ward, without hesitation, delivered the register to the man, and it was carried off by him.

At that moment this affiant supposed the book sent was a copy. But soon afterwards this affiant wishing to transact his business with the agent inquired for the register of claims, and was informed that the book loaned out as aforesaid, was the book desired. Whereupon this affiant suggested the impropriety of such a course to the agent, who said he would not lend it out in future, and promised to send for it. The book was returned the next day.

JNO. C. WHITSETT.

Sworn to, and subscribed before me, this 28th day of November, 1835.

WM. H. WALSH, J. P. [SEAL.]

Further this affiant saith, that during several days which he spent at the agency, he saw the register of claims exposed during the whole time to the access of every one who might think proper to meddle with it; he remem-



bers to have seen Col. Ward strike a name from the register with his pen, saying at the time he did it, the individual had applied to him to have his name registered, and had been refused by him the said agent; that some person had inserted his name in his absence, and that he, the agent, was determined that the individual should not have land. Further this affiant saith, that so far as he saw and knew of the agent's manner of transacting the business of the Choctaw claims, it was extremely loose, and greatly liable to afford error and mistakes.

JNO. C. WHITSETT.

Sworn to, and subscribed before me, this 29th November, 1835.

W. H. WALSH, J. P. [SEAL.]

N—No. 6.

STATE OF MISSISSIPPI, *Holmes County, ss.*

This day personally appeared before me, Robert L. Walton, clerk of the circuit court in and for said county, James Oxberry, who being duly sworn, deposes and says, that some time in the month of July, in the year one thousand eight hundred and thirty-one, and within six months after the ratification of the late Choctaw treaty, this deponent visited the office of the then resident agent for the Choctaw Indians in the State of Mississippi, (Col. William Ward,) for the purpose of registering his name for the five year's stay or citizenship, under the 14th article of said treaty, and that the name of this deponent was then duly registered by said agent in a book which this deponent understood was kept by said agent for the purpose of registering the names of Choctaw citizens applying for the benefit of said treaty. And this deponent further saith, that the book in which the name of this deponent was registered, appeared to contain about six quires of paper, larger than common size foolscap paper, the back and sides covered with leather, with a piece of leather of a different color on the back, with letters on it, as this deponent believes; that this book contained the names of the following persons with whom he was acquainted, to wit:

John Perry, James Perry, Joseph Perry, Hardy Perry, Charles Frazier, Molly Frazier, Polly Frazier, Nancy Frazier, Harry Frazier, Nelly Dyer, Lewis Perry, Garrett E. Nelson, George Nelson, Isaac Nelson, Eden Nelson, Blount Nelson, Solomon Nelson, Moon-tubba, Tish-o-pia, Shok-wa-hubba, How-a-chubba, Halla, Ho-pac-ka-nubba, Sti-mo-na-noka, Ano-nan-tubba or Aun-ta-tubba, Sham-pi-ka, Im-ma-hoy-a, Ma-chubba, O-chin-chi-pona, E-la-no-au-chi, Apo-no-ka, Rachel Davis, Nancy Moore, Tick-ba-pa-lubba, I-ya-na, I-immá-tubba, Tu-nish-pa, Par-sish-to-nia, Ho-litta-no-ma, John T. Hammonds, William Thompson, and a number of others which this deponent cannot now name, all of which were Choctaw heads of families; and this deponent further states, he acted as interpreter to the locating agent, Col. Martin, and that previous to the land sales in the fall of 1833, he saw and examined a book in the possession of the locating agent, which said agent informed him he had received from Col. Ward, the resident agent, as the register of the names of all the Choctaw citizens who had given in their names to be registered for the benefits of said treaty, which last mentioned book appeared to contain about two quires of paper

sewed together without any cover, and which this deponent verily believed is a different book entirely from the one in which his name was registered at the office of said Ward as aforesaid.

Interrogatory 1st. Please state what you know as to the habits of Col. Ward and his sub or assistant agent ?

Answer. I cannot say of my own knowledge much about the habits of Col. W. Ward, but I have always been under the impression from information, he was a very intemperate man ; and further, I was very well acquainted with his brother Stephen Ward, the sub-agent, and know he was an exceedingly intemperate man, subject to excesses of intemperance by the too great use of ardent spirits, unfitting him for any kind of business ; and I believe said Stephen Ward had much, if not the greater part of the business of the registering of the citizens, or what is called the five year claims under the treaty.

2d. State the object of your visit to the resident agent, and all you know about the matter, and particularly what transpired while you were at the agency ?

Answer. William Thompson and myself arrived at the agent's (Col. Ward's) about two or three o'clock on the 2d July, 1831, and were there some five or six hours ; finding Col. W. Ward was not there, we applied to the sub-agent, Stephen Ward, to register our names as citizens to stay the five years, and receive the benefits of the 14th article of said treaty. I found, on examination of the aforesaid book, that my name had been registered by Mr. G. E. Nelson, and I then applied to the agent for his certificate to the fact ; that my name, the number of my children, and their ages, were actually placed on said book which he gave me, and I have previous to this placed the same in the hands of the locating agent for the purpose of having my land secured to me, agreeable to the provision of the said 14th article of the treaty aforesaid ; and after the agent (Ward) had given me my certificate, I inquired of him who had registered the names of the above named Indians, and he informed me it was Mr. Garrett E. Nelson ; and further said, that the said Garrett E. Nelson had applied as the agent of about one hundred and fifty Indians, heads of families, and had their names registered as citizens under the 14th article of said treaty, the names of Mr. Thompson and myself being included in the number. The said Stephen Ward seemed to discourage us from registering our names under the 14th article, by stating if our wives went away we could not be benefitted, and that he was instructed to reject the names of white men who had Choctaw families, as the United States would not let them have land, as they would not be considered Choctaw heads of families ; and in consequence Mr. Thompson who had a certificate granted him, determined to go west, as he had been told he could not hold land, and on finding that his name was not on the register handed over by Col. Ward to the locating agent ; that said Thompson always considered himself entitled to land, having done all the treaty required of him, and went west much deceived and disappointed ; and on further conversation with the agent he stated, that there were a great many persons not Indians whose names were registered under the 14th article, (and the truth of which this deponent then saw ; ) but he the agent further stated, he knew the Indians had much better go west of the Mississippi, for they never could stand the laws of the whites, and under this impression he had registered their names merely to satisfy their minds and keep them from pestering him any more.

3d. State what you know concerning your people, and any thing concerning yourself, which you may think proper to state?

Answer. I am a half breed Indian, bred up in the nation; we have no way of communication except by hearsay; I have always understood that the Moglushes, the Six Towns, and many of the Sou-chi-na-chee Indians, as well as the Cobb and Pickens Indians had stayed, and I know myself of my own knowledge, many of the Indians whom I have put down and named above by name have none of them got land, unless it should be allowed them by the Government hereafter, or by the confirmation of the late locations.

4th. Are there any of your former neighbors now remaining, who have not emigrated, and what are the circumstances attending, and what the object of their stay?

Answer There are a number of my immediate acquaintances, relations and friends, who had their names registered under the five year citizen clause of the treaty, and who are now somewhere, not a great way off, in a strolling condition, the most of them. Their lands which they lived on, and expected to own, having been sold by the Government of the United States, leaving them no spot on which to rest the sole of their foot, which they could call their own, and they complain much of such treatment by their white brethren, and contend it is not what the treaty promised them. It is my belief that there cannot be less than forty to fifty heads of families, of my friends and acquaintances, now in this condition, who were my former neighbors, and not one of the individuals herein named, and who were registered by Ward in the aforesaid book, have ever received the benefits of the 14th article of the treaty, nor were their names on the book which I saw in the hands of the locating agent, and which he said he had procured from Col. Ward, as the five years' register of Choctaw heads of families. And I further know that many of the individuals above alluded to, are completely destitute, and depend upon game and charity for their support. And further this deponent saith not.

JAMES OXBERRY.

Sworn and subscribed to before me, this 25th February, 1836.

R. L. WALTON, *Clerk*.

Witness my hand and private seal of my office, this 25th February, 1836.

R. L. WALTON, *Clerk*, [SEAL.]

I hereby certify, that I have been intimately acquainted with James Oxberry seven or eight years, and it affords me a pleasure to say, he is a peaceful and good citizen, and I believe him honest, and his word on oath to be entitled to full credit and belief.

JOHN T. HAMMONDS.

February 22, 1836.

I hereby certify, that I have been acquainted with James Oxberry three or four years, and it affords me a pleasure to say, he is a peaceful and good citizen, and I believe him honest, and his word on oath to be entitled to full credit and belief.

WM. RANEY.

February 22, 1836.

I have been acquainted with James Oxberry one or two years, and concur with the above certificates.

GEO. C. WARD.

*February 22, 1836.*

We certify, that we have for about a year past, been acquainted with John T. Hammond and James Oxberry, who have, during that time, resided in the neighborhood of this place; and we have no hesitation in saying that we consider them highly credible and intelligent men, and worthy of all confidence.

R. H. STERLING.  
SAMUEL GWIN.

*Chocchuma, November 27, 1834.*

[N—No. 7.

DEMOPOLIS, ALA. *November 15, 1834.*

SIR: I have met here, Mr. Williams, the bearer of this letter, who was in pursuit of me, in order to obtain my testimony of the fact of Imponah, *alias* Billy, and Cunneubbee, two Choctaws residing on Factory creek, having applied in due time to Col. Wm. Ward, late United States Choctaw agent, to be registered for citizenship, in conformity to the treaty of Dancing Rabbit creek, the former having one child over ten years of age, and the latter two children under ten years of age.

I well recollect of interesting myself for the Indians residing in the neighborhood of the Factory, who desired to become citizens, and of going with them to the agent's room when at the Factory, and seeing that he took down their names, and described their families for registration, as the parties called upon me for that purpose, and I do verily believe the above named Indians were of the number; and that they, with others, who I am told are not found on the register in your hands, did what was required of them to entitle them to the lands occupied by them.

I have, some two weeks ago, addressed the Hon. Secretary of War on the subject of the omission of the agent mentioned to record upon his books the applications for citizenship of many families, made to him at the Factory, and full minutes of the same, made by him for that purpose in my presence, requesting an order from him on the proper authority to reserve from sale the lands claimed until the parties could produce proof of their applications in due time. But as there may not be time to receive such an order at the land offices before the public sales next month, I would respectfully suggest to you, whether under the circumstances, it would not be your duty to cause to be reserved from sale all the lands claimed by the parties mentioned, including all those named in my letter to the Hon. Secretary, a copy of which Major Whitsell will lay before you. It is beyond doubt that the parties are entitled to their lands, and that justice would be subserved by the course suggested, and the Government saved much trouble.

I am, &c.

GEO. S. GAINES.

GEO. W. MARTIN,  
*Locating Agent, Choctaw Claims.*

Mr. Gaines, I expect, is well known as a respectable and intelligent man ; I conceive him such, from formation ; with Mr. Williams, the other witness, I am unacquainted

GEO. W. MARTIN,  
*Locating Agent.*

O.

*To Doctor John J. Dillard, of Sumter county, Alabama, greeting :*

Reposing trust and confidence in you, I do, by these presents, appoint you a Commissioner to take testimony and depositions in writing, touching the validity of the claims of Hotah Eye-a-tubbee, His-tubbee, Ona-hambee, Ano-kac-tu-tubbee, La-lo-mah, Jan-in-tubbee, Noah-timah, Anolah, Ispia, Tevara-a-tucha, No-wa-ho-nah, and Little Leader, under the 14th article of the treaty of Dancing Rabbit creek, and touching any frauds which the said Choctaws may have practised, or attempted to practise, on the Government, or which other persons may have practised, or attempted to practise, in their, or either of their names. For this purpose, you will attend at the house of Opia-stittina, (otherwise called Little Leader,) in Kemper county, Mississippi, on Monday the 14th day of December next, and there remain, from day to day, for the space of two weeks, unless your business is sooner concluded.

Before you enter upon the discharge of your duty, you will make and sign an affidavit before some person authorized to administer an oath : "That you are not in any manner interested, for or against the claims of said Indians, or the claims of other persons who claim adversely to said Indians, or either of them, or interested in the claims which have been purchased of said Indians, or either of them." You must procure the attendance of some justice of the peace, or other officer authorized by law to administer oaths ; and all testimony and depositions, taken before you, must be taken under oath.

The opposite parties, or their attorneys, to this contest, will serve each other, or their attorneys, with a list of the names of each of their witnesses respectively, before or by the 27th day of this *instant*; and the testimony of no witness shall be taken by you, unless his name appears on such list so served or acknowledged ; and for all such witnesses so ratified to the opposite parties respectively, you shall issue subpoenas on application of either party. You will take the depositions of Choctaw Indians as well as white persons. The testimony and depositions so taken by you, together with this commission, you will seal up and send to me by a special messenger to Chocchuma, Mississippi. Two other persons are appointed besides yourself ; any two of you may act, and in case only one of you shall attend, that one may appoint another to act with the one in attendance.

Christopher C. Scott is the attorney for the Choctaws, and Messrs. Acee and Grant, for Wm. H. Capers and others, who complain against the Indian claims.

In testimony I have to these presents set my hand and seal, this 4th day of November, 1835.

GEO. W. MARTIN. [L. s.]  
*L. Agent.*



## P.

William H. Capers and Others, *vs.* Hotah, Eye-a-tub-ba, Ki-a-tub-ba, Ona-ham-ba, Anoch-ack-tubbee, La-la-mah, Jan-im-tubba, Noah-tim, Ano-lah, Ishpia, Tevara-a-tu-ha; Nowah-honah-ana, Little Leader, Choctaw Indians.

This is to certify that, in pursuance of a commission to us directed from George W. Martin, locating agent of the United States for the Choctaw nation of Indians, dated on the 4th day of November, 1835, appointing us, the undersigned, commissioners to take testimony and deposition in writing, touching the validity of the claims of the above named Indians, and any frauds which the said Indians may have practised, or attempted to practise on the Government, or which other persons may have practised, or attempted to practise in their, or either of their names: we did attend at the house of the Little Leader, in the county of Kemper, in the State of Mississippi, on the 14th day of December, 1835, and then and there remained until the 15th December, 1835, when William H. Capers and others, by their attorney, Pryor M. Grant, duly appeared, and the said Indians, by their attorney, C. C. Scott, and Murphy and Wilson, before the undersigned commissioners, and then and there the question arose, which party should first introduce testimony; upon which the undersigned commissioners did then and there determine and decide that, in their opinion, the said William H. Capers and others should first introduce testimony against the claims of the Indians, and the counsel of the Choctaw Indians then and there made known, and proclaimed to the undersigned commissioners, that all the Indians aforesaid were ready, with their witnesses, to go to trial, if William H. Capers and others should make out a case, or introduce testimony against them, or either of them. And the said William H. Capers and others, and no other person or persons for them, and no other person or persons whomsoever, making any proof against the said Indian claims, and no testimony being introduced, on account of the decision, as the attorney alleged for Capers *et alia*s, the undersigned commissioners then and there adjourned *sine die*.

Done and signed by us, at the house of the Little Leader, in the county of Kemper, in the State of Mississippi, on this the 15th of December, A. D. 1835, as witness our hands and seals.

J. A. MARSHALL,	[L. s.]
JOHN J. DILLARD,	[L. s.]
B. F. BULLOCK,	[L. s.]